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OFFICIAL REPORT

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Abbreviation	Party/Group
CB	Cross Bench
Con	Conservative
DUP	Democratic Unionist Party
GP	Green Party
Ind Lab	Independent Labour
Ind SD	Independent Social Democrat
Ind UU	Independent Ulster Unionist
Lab	Labour
Lab Co-op	Labour and Co-operative Party
LD	Liberal Democrat
Non-afl	Non-affiliated
PC	Plaid Cymru
UKIP	UK Independence Party
UUP	Ulster Unionist Party

No party affiliation is given for Members serving the House in a formal capacity or for the Lords spiritual.

House of Lords

Wednesday 23 February 2022

3 pm

Prayers—read by the Lord Bishop of Coventry.

Defence: Type 45 Destroyers
Question

3.07 pm

Asked by ***Lord West of Spithead***

To ask Her Majesty's Government when all of the Type 45 destroyers will have completed the Power Improvement Project (PIP) upgrade.

The Minister of State, Ministry of Defence (Baroness Goldie) (Con): My Lords, it is planned that all six Type 45 ships will have received the power improvement project conversion by 2028.

Lord West of Spithead (Lab): My Lords, I have great respect for the Minister and her buoyant way of answering questions, but I have to say that with her brief she is a bit like a Tommy in the First World War being told to be go over the top. The PIP has been an absolute disaster. We knew in 2009 that there was a problem with our destroyers—we only have six of them. It took three years to work out how to resolve it—to 2012. It took another two years to say, "We will find some money within the programme to do this". The first one went in for work in 2020, that was the "Dauntless" in May, and we were told she would be out by early 2021. "Dauntless" has still not rejoined the fleet. "Daring" is about to go in and have this done. One has very severe doubts about when this will be completed.

My real concern is that when you go to war, you have to fight with what you have, and it seems to me that when you have only six destroyers, if they are not working properly, you should be pushing as hard and fast as possible to do it. British workmen can do this. When I came from the Arctic down to the UK before the Falklands, they told me it would take 10 weeks to sort my gun out. The Argentinians invaded, a team came on board and said, "Skipper, we will sort it out in two days." So, we could do these things quicker and we really must, because we are in a very dangerous world. In the context of this case, are we putting money from the reserve now into our military programmes to fill where there are real gaps because we are in such a dangerous world?

Baroness Goldie (Con): Let me say to the noble Lord, who I thought was being somewhat uncharacteristically mean-spirited, that he will understand that the problems that beset the power propulsion systems of these destroyers have been long-standing—he is quite right about that. I reassure him and your Lordships that there is every determination to get these six destroyers installed with the power improvement project. In fact, "Dauntless" should be returning to sea this year for sea trials; "Daring" is already at Cammell Laird and programme conversion work on her will be carried out during 2022. It is important to say that these destroyers are hugely capable ships, they are universally admired across the world, and all naval operational requirements at home and abroad continue to be fulfilled.

Lord Boyce (CB): My Lords, given the length of time before the Type 45 numbers will be up to operational scratch, with concomitant effect on our destroyer frigate force levels, will the Minister say what is being done to improve the in-service dates of the Type 31 and Type 26, whose build rate is lamentably slow? Speeding it up will certainly help mitigate the force level problem.

Baroness Goldie (Con): As the noble and gallant Lord will be aware, batch 1 of the Type 26 is under way and the first one, HMS "Glasgow", should be in the water by the end of this year and is currently expected to enter service in 2027. On current plans, the following two, "Cardiff" and "Belfast", will enter service in the late 2020s. On the Type 31, he will be aware that these are proceeding well and their estimated delivery schedule is for all five by the end of 2028. I think the noble and gallant Lord will understand that, as the manufacture continues, delivery of successive ships is not necessarily constant across the whole class. For example, for the Type 26 batch 1, there should be one every 18 months and for the Type 31, there should be one every eight to 12 months.

Baroness Davidson of Lundin Links (Con): My Lords, as a former Glasgow representative, the Type 45s were built on my patch and I have seen first-hand the construction, launch, trials and service of various of the vessels. In their primary role as an air defence platform they have some outstanding capabilities, but the recent increased activity of the Russian navy highlights concerns about both reliability and lethality. Of the six vessels, there have been times where four, five or even all six have been unavailable for service. While air defence is a strength, the lack of anti-ship missiles continues to be a concern. Can I ask the Minister to give reassurance that, following the power improvement project upgrade, we expect to see increased reliability and availability of the Type 45? Can she tell us what anti-ship capabilities we have across the wider fleet, including the new Type 26 frigates?

Baroness Goldie (Con): Yes, as I have already indicated to my noble friend, the programme for the Type 45s is established, it is encouraging and the improvements will be made. As to the Type 26 frigates which are being produced in Glasgow, they will be muscular, they will be equipped with a Sea Ceptor anti-air missile defence system. They have been fitted with the Mark 41 vertical launch silo to allow future flexibility and they will also be capable of embarking a Merlin anti-submarine warfare helicopter or a Wildcat maritime attack helicopter, which will be able to apply Sea Venom and market variants of the future anti-surface guided weapon.

Baroness Smith of Newnham (LD): My Lords, the original PIP was supposed to refit between 2019 and 2021. The Minister for Defence Procurement then said the estimated date for the PIP to be completed was the

[Baroness Smith of Newnham]
mid-2020s; 2028, which the Minister mentioned earlier, is surely the late 2020s. Can she say whether she has any confidence in the figures that she has been given, and can she tell us how much of the £189 million budget for the PIP has been spent and whether she anticipates it going over budget?

Baroness Goldie (Con): I say to the noble Baroness that the programme is under way; it is scheduled, and the other Type 45s will be going in subject to their operational obligations and their availability for the refit. I think the noble Baroness should understand that the conversion is a complex engineering project. The noble Lord, Lord West, and I may disagree on many things, but I think we are both agreed on the technical complexity of this and it is being delivered against the backdrop of the Covid-19 pandemic. There has been a significant challenge that has tested industry and it has impacted the schedule, but we continue to monitor and review the programme.

Lord Houghton of Richmond (CB): My Lords, as we have seen in Ukraine, the most important vector of attack in conflict below the threshold of formalised warfare is a form of politicised war based on an effective narrative. I am sure the problem of the Type 45's power plant will be expensively resolved, but what steps are we taking to improve our speed and effectiveness in translating military activity into an effective political narrative?

Baroness Goldie (Con): I am almost tempted to answer the question the other way around and say that, with the integrated review, the defence Command Paper and the allocation of budget to defence over the duration of this Parliament and exactly what that means for both equipment and shipbuilding, we have seen that there is a very manifest political resolve to support defence and ensure our capability is as good as it can be. As to the more strategic questions of how you relate what you are doing at the MoD end with what is required out on the front, as the noble and gallant Lord will understand, we are constantly assessing, identifying and recognising threat and addressing that with the multifaceted character of the capability we have.

Lord Coaker (Lab): My Lords, the chair of the Defence Select Committee recently said that

"our Navy will soon be too small to defend our interests and deal with emerging threats."

Given that the noble Baroness has just told us that the six warships will not all be seaworthy until 2028, can the Government confirm that they have a Navy relevant to the needs of this country in terms of the threats we face? How does the fact that, at the beginning of February, all six warships were in dock help us defend our country and those of our allies?

Baroness Goldie (Con): As the noble Lord will be aware, all our ships are subject to planned maintenance schedules; that is how the Navy operates. As to the broader question of whether we have a Navy that is fit for purpose, I think the answer is yes, we do. If you look at the success of the carrier strike group, which was regarded as a universal declaration of naval strength across the globe, if you look at the supporting assets which were out in attendance to the carrier and if you consider that, for the first time in 30 years, we have two classes of frigate simultaneously under construction in UK yards—the noble Lord might be envious of that; I know he will regard that with pleasure, but it was not something that occurred when his party was in government—I would say that the Navy is in very good shape.

Lord Trefgarne (Con): My Lords, how many of these vessels remain ready to be deployed to the south Atlantic to respond to the recent threats from the Argentinians—supported by the Chinese, no less—in case they came to pass as they did in 1982?

Baroness Goldie (Con): Well, as I said earlier, we always build in an assessment of where the threat lies and how we counter it. As my noble friend will be aware, we are dealing with exceptional circumstances at the moment and are focusing our attention on addressing that threat. However, we do not neglect where threat may be emerging in other forms and other areas of the globe.

Lord Campbell of Pittenweem (LD): My Lords, since we are dealing with the question of equipment, can the Minister tell us if she is familiar with the Public Accounts Committee report of 3 November 2021? In relation to equipment, it said it was

"extremely disappointed and frustrated by the continued poor track record"

of the Ministry of Defence and that that had resulted in a

"wastage of taxpayers' money running into the billions."

How can the ambitions of the integrated review ever be achieved unless the Ministry of Defence is able to run its defence budget?

Baroness Goldie (Con): The noble Lord is correct in quoting the committee and in that it identified areas of historic weakness, but as the noble Lord will be aware, radical reform has been undertaken in respect of procurement within the MoD. Arrangements are now much more tightly and robustly negotiated at the inception of a contract and much more ruthlessly and robustly monitored during its duration. Therefore, there is evidence of improvement and of that coming through in the finances.

Ireland: Russian Naval Military Exercises

Question

3.18 pm

Asked by ***Lord Godson***

To ask Her Majesty's Government what discussions they have had with the government of Ireland regarding plans by Russian forces to hold naval military exercises 150 miles off the south-west coast of Ireland.

The Minister of State, Department for the Environment, Food and Rural Affairs and Foreign, Commonwealth and Development Office (Lord Goldsmith of Richmond Park) (Con): My Lords, on 24 January, the Irish Minister for Foreign Affairs, Simon Coveney, briefed EU Foreign Ministers about the planned exercises and publicly stated that Ireland did not welcome them, but that Russia was within its legal rights to conduct them. He reiterated this position in a call with the Foreign Secretary on 28 January. The next day, 29 January, Minister Coveney confirmed that the exercises would in fact take place outside of Ireland's exclusive economic zone.

Lord Godson (Con): I thank my noble friend for that Answer. Of course, the exercises did not take place, partly thanks to the representations of the Irish South and West Fish Producer's Organisation, which deserves great credit for this. In the intervening period, the Irish state commission on defence has reported, flagging certain concerns it has about the level of Irish state capability in defence. What further can the Minister say about further interactions and connections between the British and Irish Governments through mechanisms such as the British-Irish Intergovernmental Conference? Looking forward, might the Secretary of State for Defence's Office of Net Assessment be able to take a view and produce an assessment on what is going on in what used to be called the Western Approaches, in terms of threats there to the totality of interests of all states in these islands?

Lord Goldsmith of Richmond Park (Con): I assure my noble friend that I will pass on his specific request to my counterparts in the Ministry of Defence. On the issue he raises, the Secretary of State's Office of Net Assessment and Challenge, or SONAC, which my noble friend has long championed, is a useful mechanism for Her Majesty's Government to look across all areas of defence. SONAC is closely involved in supporting cross-government efforts on the current crisis in Ukraine, providing rigorous red teaming, a challenge scrutiny and expertise, and it will continue to do so. I note and agree with his comments about Ireland's fishing community.

Baroness Ritchie of Downpatrick (Lab): My Lords, will the Minister use his good offices with his colleagues in the Cabinet Office and the Northern Ireland Office to ensure that there is an early meeting of the British-Irish Inter-Governmental Conference? The last meeting was held in early December 2021, and promises were made that a further meeting would take place in early 2022. There is a large agenda, including the item referred to by the noble Lord, Lord Godson, and other issues that involve the co-guarantors of the Good Friday agreement, such as legacy and the protocol, and the restoration of political institutions in Northern Ireland.

Lord Goldsmith of Richmond Park (Con): Ireland is a hugely important ally, and we continue to work closely across a number of security and defence interests, and there have been many exchanges in recent days, weeks and months. On 6 January, the Minister for Foreign Affairs, Minister Coveney, spoke about sanctions, the risk of escalation and the need for a united Europe. Concerning Russia, Minister Coveney assured the Foreign Secretary that the EU would support a very robust response. The UK's integrated review sets out our foreign and security priorities with Ireland, including the common travel area, upholding the Good Friday agreement and protecting the prosperity and stability of Northern Ireland, and the peace process. This is obviously a sensitive time in UK-Ireland relations, but we deeply value that relationship, and we are working closely with Irish counterparts in a range of areas of common interest.

Lord Collins of Highbury (Lab): My Lords, acting in lockstep with our allies is not just about punishing Russian aggression. It is also about protecting our interests, so could the Minister tell us when we will see stronger targeting of systems, rather than people? When will we see the reform of Companies House to make it fit for purpose? When will we see a register of overseas owners of UK properties? And when will we see a strong economic crime Bill?

Lord Goldsmith of Richmond Park (Con): I do not think there can be any doubt about the extent of the package set out yesterday. We are out in front by sanctioning 275 individuals, placing restrictions on banks worth around £37 billion, and under the measures that Parliament has already approved, we can target any Russian entity or individual. It is the most far-reaching piece of legislation of its kind. The key is for us to proceed in lockstep with our allies to simultaneously pressure Russia from all angles. Our unity is critical. As the Prime Minister said earlier, we have prepared, ready to go in the event of further aggression, an unprecedented package of further sanctions, including wide-ranging measures targeting the Russian financial sector and trade.

Baroness Smith of Newnham (LD): My Lords, the Chancellor of Germany made a major statement yesterday about Nord Stream 2. If Her Majesty's Government are trying to act in lockstep, should not the sanctions against Russians in London, and other sanctions be of a similar magnitude to those introduced by Germany?

Lord Goldsmith of Richmond Park (Con): My Lords, we greatly welcome the announcement from Germany—indeed, the Government have long argued against the project proceeding for precisely the reasons that have now become clear. We are clear that yesterday's announcement in the UK represents the first wave of sanctions, which target some of the individuals and entities closest to the Kremlin. We are co-ordinating with our allies around the next steps, and we will continue to work with our partners to build the most powerful set of financial sanctions ever imposed on any major economy.

Lord Foulkes of Cumnock (Lab Co-op): My Lords, the Minister said in reply to a previous question that these sanctions had already been approved by Parliament. But that is not true—they are on the Order Paper for tomorrow, so they have not yet been approved by this House. They are totally inadequate, and I hope that when we consider them tomorrow, this House will say that they are totally inadequate.

Lord Goldsmith of Richmond Park (Con): My Lords, I was talking about the changes that were introduced on 10 February, which will mean that we are able to more readily designate a far greater range of individuals and businesses associated with the Kremlin. It is clear from what the Prime Minister said today and what the Foreign Secretary said yesterday that that is our intention.

Lord Rogan (UUP): My Lords, much has happened since the noble Lord's original Question appeared on the Order Paper, and the situation in Ukraine continues to be grave. Russia's announcement that it was to hold live artillery and missile-firing exercises in part of the exclusive economic zone of Ireland was an early indication of the path that Vladimir Putin has foolishly chosen to tread. Although it is not a member of NATO, the Republic of Ireland currently serves alongside the United Kingdom as a non-permanent member of the UN Security Council. What precise role does the Minister feel that the Irish Government can play with the rest of the free world in standing up to Russian aggression?

Lord Goldsmith of Richmond Park (Con): My Lords, the UK will always stand up for the interests of Ireland, which is not just our closest geographic neighbour but one of our closest friends. On the subject of this Question, Minister Coveney raised his concerns with the Russian ambassador to Ireland at the EU foreign affairs meeting on 24 January. Five days later, on 29 January, the Russian ambassador to Ireland announced in a statement that the exercises would be moved outside of the Irish EEZ. Therefore, from the point of view of Ireland and Minister Coveney, the issue has been resolved.

Lord West of Spithead (Lab): My Lords, does the Minister consider that there is any significance to the fact that where the Russian exercise was planned for is the point where the two most important transatlantic fibre-optic cables come within a matter of two miles of each other, or is that just happenstance?

Lord Goldsmith of Richmond Park (Con): The noble Lord raises an important point. Obviously, I can only speculate, but irrespective of whether what the Russians were planning to engage in was legal—I think it is generally accepted that what they were intending to do was legal—it was undoubtedly provocative and overly assertive.

Lord Watts (Lab): My Lords, is it the case that both Russia and China have a strategy and a plan to promote their interests, while the West, including the Government, has no strategy or plan for dealing with China or Russia?

Lord Goldsmith of Richmond Park (Con): I do not agree. It is essential that we work with and align as closely as possible with our allies. However, the single most effective thing we can do in relation to the current threat, which has become more than a threat in recent days, is to hit Russia where it hurts, which means imposing as tight a series and set of sanctions as possible to punish those who are closest to, and in many cases propping up, the Kremlin.

Baroness Bennett of Manor Castle (GP): My Lords, in response to questions from my honourable friend Caroline Lucas in the other place, the Prime Minister said yesterday that he was not aware of any Russian interference in UK elections. Today he said that he was not aware of any successful Russian interference in UK elections. I am sure that the Minister is aware of the Intelligence and Security Committee's report on Russia, which said simply that there has been no investigation, so we have no idea whether this has happened. Is it not time, in the current geopolitical climate, to launch that investigation, particularly given the fact that we have elections coming up in the UK in a few months' time?

Lord Goldsmith of Richmond Park (Con): My Lords, I start by referring the noble Baroness to the answer given by the Prime Minister today. However, I would just caution her: it seems that this question and indeed this issue became a bit of a bogeyman during the Brexit debate, when all kinds of allegations were made around Russian money, none of which, as far as I am aware, has been substantiated. Our Prime Minister and this Government have done most of the running in terms of corralling our allies to take the position that we have now taken in response to the threat posed by Russia. I do not think that there is any doubt internationally that the Prime Minister has led this international coalition-building exercise.

Covid-19: Effect on Education in Deprived Communities

Question

3.30 pm

Asked by ***Lord Storey***

To ask Her Majesty's Government what assessment they have made of the effects of the COVID-19 pandemic on the education of school children in the most deprived communities.

The Parliamentary Under-Secretary of State, Department for Education (Baroness Barran) (Con): My Lords, pupils were one to three months behind in their learning in summer 2021; an improvement on spring 2021. Pupil premium pupils were around half a month further behind in reading and maths at primary level and 1.7 months further behind in reading at secondary level. That is why, as well as the universal offer to all students and staff, we are targeting our £5 billion of education recovery funding at pupils who most need support to recover their lost learning.

Lord Storey (LD): My Lords, I thank the Minister for that Answer. She will be aware that the Education Policy Institute has announced that, for the first time since 2007, pupils have fallen behind. It has also said that the number of students on the poverty line has grown. If this so-called £5 billion recovery plan is not successful, what will the Government do? Will more money or other funding streams become available? Will the Minister comment on Teach First's proposals that we rethink the pupil premium?

Baroness Barran (Con): The noble Lord is right on the principle that we need to keep close track of the impact of the measures that we have announced already. I remind the House that the interventions that we are funding with the £5 billion package are all those that have the highest evidence base to support them. They are highly targeted, both geographically and by age, and it is a multiyear package.

Baroness Whitaker (Lab): My Lords, will the Minister join me in congratulating the Traveller movement on its effective and popular project of post-Covid catch-up for Gypsy, Traveller and Roma school students? How many of those have been reached with demonstrable effect by the Government's £1 million education programme, particularly in view of the questions raised over the competence of the Randstad contracts?

Baroness Barran (Con): I do not have the specific data to hand as to the number of pupils from the Traveller and Roma community, but I am happy to share that with the noble Baroness if it can be found.

Baroness Chisholm of Owlpen (Con): My Lords, on my recent trip down memory lane as a Whip, I remember being briefed about family hubs, which I felt were going to go a long way in improving the welfare of deprived children and families, dealing with them from conception to birth. Can my noble friend tell me how the rollout of these hubs is going?

Baroness Barran (Con): I am sure my noble friend, the Leader of the House, would join me in saying that that lane is always open for my noble friend, whenever she wants to go down it.

The Government are investing £82 million to create a network of family hubs, as part of a wider £300 million package to transform services for parents, carers, babies and children in half the council areas across England, making sure that thousands of families will have access to the support they need. The clear aim is early identification and an approach which will address the range of challenges that a family might face.

The Lord Bishop of Gloucester: My Lords, due to the effect of the pandemic on university experience, greater numbers of young people have deferred their university places. This particularly affects students leaving school this year, as university capacity is limited. Will the Minister say what is being done so that those from deprived backgrounds seeking university places this year do not become further disadvantaged in their education and future life choices, having often been the most affected by two years of a pandemic?

Baroness Barran (Con): The right reverend Prelate will be aware that we have been working hard with the Office for Students to ensure that there is the strongest possible approach to fair access for students from disadvantaged backgrounds. We will imminently be making more announcements in that regard and I look forward to debating those with the House.

Baroness Stuart of Edgbaston (CB): My Lords, does the Minister accept that the impact on preschool children of the loss of educational provision in the past two years is disproportionately affecting their life chances? Will she therefore ensure that not only early childhood education provisions but the providers of preschool facilities, which are probably most impacted in deprived areas, are supported?

Baroness Barran (Con): I partly agree with the noble Baroness about the disproportionate impact. I absolutely agree with her about the science of early childhood development and how important it is that we prioritise children in the first 1,000 days of their life. However, equally, for those children who have less time remaining in education, it has been incredibly important that we focus on them—for example, lengthening the school week for those in 16 to 19 courses.

The Lord Speaker (Lord McFall of Alcluith): My Lords, the noble Baroness, Lady Brinton, is taking part remotely. I invite her to speak.

Baroness Brinton (LD) [V]: My Lords, last year, Sir Kevan Collins resigned when the Government allocated only 1/10th of the funds he said were needed to deliver a real post-pandemic education recovery plan. At £50 per pupil, he said it was "feeble". In the light of the shocking delayed learning figures that the Minister has just outlined, will she undertake to review and increase the funding?

Baroness Barran (Con): I do not recognise the noble Baroness's figure of 1/10th, but we have been highly targeted in our interventions and the early data is encouraging, particularly for primary school pupils, on the rate of catch-up in all areas of the country. The greater concern is about secondary pupils, and that is why we have apportioned a greater share of the funding to that group.

Lord Flight (Con): My Lords, is it not the case that Covid-19 and the effects thereof are little influenced by economic background?

Baroness Barran (Con): I apologise, but I caught only part of my noble friend's question. I think I understood him to say that a child's background does not have a great impact on their outcome. The evidence does not support that. We are very pleased that the disadvantage gap decreased between 2011 and 2019 by 13% at primary level and 9% at secondary level, but it is clear that children from disadvantaged backgrounds do less well in education—hence our emphasis on levelling up.

Baroness Bull (CB): My Lords, can the Minister update the House on what discussions she is having with the independent school sector about partnerships with state schools to support less advantaged students? Does she agree that, while individual collaborations are always to be welcomed, her department has a role to play in brokering systemic and sustained programmes that could utilise online capacity for learning to ensure that support is targeted on those areas most in need, rather than on schools that are geographically close?

Baroness Barran (Con): As ever, the noble Baroness makes a good point about the potential for online collaboration. The department really supports partnerships with independent schools, and there is some fantastic work going on, from local collaboration to very specific support for children in the care system being offered places at independent schools. We are encouraging that, but I share her desire that we should ensure it maximises the impact for children.

Lord Watson of Invergowrie (Lab): My Lords, at his press conference with the Prime Minister on Monday, the Chief Scientific Adviser said that

"this virus feeds off inequality and it drives inequality and that needs to be borne in mind at all times."

Those words should perhaps be framed and placed on the desk of every Minister—and, for good measure, that of the noble Lord, Lord Flight. Contrary to the figures that the Minister gave in her Answer, the Education Policy Institute said that disadvantaged pupils in England are 18 months of learning behind their peers by the time they finish their GCSEs. The Government are not doing enough to reduce that gap. Further to the point made by the noble Lord, Lord Storey, on the pupil premium, will she consider the suggestion that it should be extended to those qualifying 16 to 19 year-olds in full-time education?

Baroness Barran (Con): Time does not permit all the details, and I do not have them to hand, but I did look at the difference between the data that we have been using in terms of lost learning and the data to which the noble Lord refers. There are some important points which underlie and explain the difference in the two figures. We genuinely believe that the figures which we are using are the most reliable and the most robust. In relation to pupil premium, of course we keep our policy under review, but we recently published guidance from the Education Endowment Foundation which helps schools to work through how they spend that premium to best effect.

Ukraine: OSCE Special Monitoring Mission

Question

3.40 pm

Asked by ***Lord Browne of Ladyton***

To ask Her Majesty's Government what assessment they have made of the implications of the withdrawal by the United Kingdom, United States of America, and Canada, of their monitors from the Organisation for Security and Co-operation in Europe (OSCE) Special Monitoring Mission in Ukraine.

The Minister of State, Department for the Environment, Food and Rural Affairs and Foreign, Commonwealth and Development Office (Lord Goldsmith of Richmond Park) (Con): My Lords, in response to the rising threat of massive Russian military intervention in Ukraine, we reluctantly took the decision to withdraw our UK secondees to the OSCE special monitoring mission, in line with our duty of care responsibilities. We are aware that this will have an impact on mission operations. However, the UK remains a strong supporter of the special monitoring mission and will continue to work with the mission to support it in delivering its mandate.

Lord Browne of Ladyton (Lab): My Lords, I thank the Minister for his reply, which amounts to, "Other countries will do this for us". On 20 January, answering a Question, the noble Lord, Lord Sharpe of Epsom, said:

"The OSCE special monitoring missions are essential and the UK is one of the leading contributors to those."—[*Official Report*, 20/1/21; col. 1753.]

I appreciate that the incursion of Russian troops into the supposedly independent breakaway regions of Donetsk and Luhansk threatens the continued presence of the SMM in these areas, but that was not the case when we withdrew our monitors. Does the Minister accept that this OSCE operation is one of the few tools, if not the only tool, that the international community has agreed and that is readily available in theatre? Does he agree that any limitations to the ability of the mission to provide verified facts are nothing less than an invitation to construct unverified pretexts for more violence? Even under the current dire circumstances, more monitoring and verification, not less, would give the right signal, including one to demonstrate solidarity with Ukraine.

Lord Goldsmith of Richmond Park (Con): I did not hear the first part of the question, which I think related to other countries and their reactions to the threat. If I am wrong, I apologise. A number of participating states are taking a similar decision to us, including the US, Canada, Ireland, Denmark and Albania. On the noble Lord's broader point, we fully recognise the critically important role of the mission in reducing tensions and helping to foster peace, stability and security, and that our withdrawal will have an impact. There is no argument there. We continue strongly to support the SMM and its mandate. We will continue to work with the mission to support its ongoing delivery of that mandate, including calling for the SMM to have free, safe, unconditional access throughout Ukraine, including in non-government-controlled Donetsk and Luhansk. The mission continues to face unprecedented restrictions on its freedom overwhelmingly in those non-government-controlled areas, as well as targeting of its technological capabilities.

Lord Hannay of Chiswick (CB): My Lords, does the Minister agree that the OSCE monitors provide the best and possibly the only totally objective means of telling the rest of the world if the Russians add to what is already an incursion into Ukraine by crossing the ceasefire line? Is it not therefore extraordinarily unhelpful that we have withdrawn our observers from that? Are there not still some NATO allies who have observers with the mission? Surely it is necessary, if we are to muster a worldwide condemnation and reaction to any further Russian incursion, for that mission to be effective?

Lord Goldsmith of Richmond Park (Con): My Lords, the UK had the third largest number of monitors and is the leading financial contributor to the mission. Because of the rising threat from Russia and our duty of care responsibilities to those taking part, the UK made a difficult decision to withdraw. However, our

secondees remain on contract and we are ready to deploy them as soon as the situation allows. That is of course what we want to do.

Baroness Smith of Newnham (LD): My Lords, when the UK ambassador to the OSCE talked about withdrawal, he noted that, even in the four months to 12 January, the number of weapons in the area doubled against what was in the Minsk agreement. That was when our monitors were there. What sort of evidence does Her Majesty's Government imagine there can be when no monitors are present? As the noble Lords, Lord Hannay and Lord Browne, said, that evidence is vital, otherwise we will have fake news from the Kremlin.

Lord Goldsmith of Richmond Park (Con): My Lords, as I said, we continue strongly to support the SMM. We are calling for it to have free, safe and unconditional access throughout the country, including those areas described by Russia as independent republics. The situation on the ground required the Government to make a decision. I will not second-guess that decision.

Lord Collins of Highbury (Lab): My Lords, yesterday, the Minister for Europe told an OSCE meeting that Russia had rejected the diplomatic efforts of the OSCE's chair in office, refused to engage in the proposed renewed European security dialogue and boycotted every meeting called by Ukraine under chapter 3 of the Vienna document. Can the noble Lord tell us what, if any, opportunities remain for Russia to engage properly with the OSCE to find a diplomatic resolution?

Lord Goldsmith of Richmond Park (Con): My Lords, all options are open to the Russians to engage in the kind of dialogue that might help prevent an escalation in the current situation. It is worth remembering that there are few—if any—countries in the world more highly skilled in the distribution of misinformation. In this Question, we are discussing Russian claims about the withdrawal. Their pitch is that withdrawal indicates knowledge of an alleged imminent Ukrainian offensive. This is clearly and self-evidently false. Our decision to withdraw was based on a threat posed by Russia—nothing else.

Lord Cormack (Con): My Lords, is my noble friend really saying that the withdrawal took place because of a Russian threat to the safety of these people? Does this not smack of pusillanimity on the part of the Government?

Lord Goldsmith of Richmond Park (Con): Yes, I am saying that the Government took their decision to safeguard the lives of the people in question. The noble Lord can draw his own conclusion. It is easy to make such statements from the comfort of these red Benches. Nevertheless, it is the Government's job to ensure, as much as they can, the safety of those people on the front line doing extremely difficult work.

Lord Watts (Lab): My Lords, is this decision not helping the Russians? They have a strategy and a plan for their misinformation. By withdrawing our people, we have allowed Russia to continue its misinformation and make more efforts with it during the next few weeks.

Lord Goldsmith of Richmond Park (Con): My Lords, there is no question but that the behaviour of Russia in Ukraine crosses numerous red lines. There is no question either about the seriousness with which we and our allies take that, as is reflected in the package of measures announced earlier by the Prime Minister. We are committed to extend this package as far as is necessary to hit Russia where it hurts.

Viscount Waverley (CB): My Lords, in the light of the Question and given these uncertain times, should not sanctions—or something similar—be seen as a deterrent, rather than as a punishment after the event? What is the Government's plan if the Russians attack Kyiv?

Lord Goldsmith of Richmond Park (Con): The noble Viscount makes a good point. As he knows, in the run-up to recent events, the UK, the US and their allies were very clear about threatening sanctions. We had hoped that this threat would deter Russia. Russia has taken the action that it has, and we have responded with sanctions, as we said we would. We have also been clear that the package of measures which we are willing to take and for which we are making preparations will go much further than that announced earlier by the Prime Minister. I am sure that all noble Lords hope, as I do, that the threat of a greatly extended package of measures will act as a deterrent to Russia.

Lord Alton of Liverpool (CB): My Lords, evidence that the OSCE has seen shows that some 14,000 people have already died in eastern Ukraine, underlining the nature of the threat that Russia poses. Is not now important for NATO allies to stand together? When the House considers that 75% of NATO's costs are met by the United States of America and that Europe has a $21 trillion economy, is it not time that everybody else stepped up to the plate and followed the example of this country in meeting their 2% share of NATO's costs?

Lord Goldsmith of Richmond Park (Con): I strongly agree with the noble Lord's comments. In addition to the role we play within NATO and the investment we make in our own capabilities, the Prime Minister has announced a whole package of support, which I will not be able to go into now, to support Ukraine in its current endeavour. The noble Lord is absolutely right that we should encourage other members of NATO to step up.

Refugees (Family Reunion) Bill [HL]

Order of Commitment

3.51 pm

Moved by ***Baroness Ludford***

That the order of commitment be discharged.

Baroness Ludford (LD): My Lords, I understand that no amendments have been set down to this Bill and that no noble Lord has indicated a wish to move a

[Baroness Ludford]
manuscript amendment or to speak in Committee. Unless, therefore, any noble Lord objects, I beg to move that the order of commitment be discharged.

Motion agreed.

Elections Bill
Second Reading

3.52 pm

Moved by ***Lord True***

That the Bill be now read a second time.

The Minister of State, Cabinet Office (Lord True) (Con): My Lords, I see that there is a large number of speakers down today. That is a testament to the importance of the subject matter underpinning this Bill. Without any offence to anyone, I particularly look forward of course to hearing the maiden speech of the noble Lord, Lord Moore of Etchingham.

The Government committed in their manifesto to secure the integrity of elections, restore constitutional balance and defend our democracy against increasingly sophisticated threats. I am therefore pleased to come before your Lordships for the Second Reading of this necessary Bill, which is a key part of that work.

We have a remarkable democratic heritage, because it has evolved and adapted with time, and overcome new threats and challenges. But it does not do that entirely naturally; it is down to the stewards of that system to actively preserve it—and, at this time, that includes your Lordships. That is why the Bill is necessary, and it is not without careful consideration that we take these steps. The Bill is the product of a number of reviews and reports, and fulfils a number of long-standing commitments.

Part 1 focuses on the administration of our elections—specifically, and most critically, on the principle that all those who are able to vote can do so easily and with confidence in the integrity of their ballot. In the Commons, we heard many times from the Opposition that this is a non-issue and that fraud within our system is not a problem. I am sure we will have the opportunity to discuss that in Committee, but we on this side must respectfully disagree.

Part 1 of the Bill therefore introduces what many consider to be an obvious requirement: the requirement to prove that you are who you say you are before you cast your vote. Everyone is challenged now as to their identity before they vote. Showing photo identification is a reasonable and proportionate way of proving your identity. It is something that we are often required to do in everyday life. Many people would question why it is not already the case; in fact, a recent Electoral Commission report was clear that the majority of the public say that a requirement to show identification at polling stations would make them more confident in the security of the voting system.

Not everyone has a passport or a driving licence, as I have seen inferred in some reporting of the provisions, so I want to underscore at the outset today that it is not just those forms of identification. Set out in the Bill is a broad range of identification that will be accepted. The Bill also makes provision for free voter cards to be produced and made available by local authorities to those electors who require them.

Noble Lords are rightly keen to understand the detail of the secondary legislation in this area and how the card will be administered. I bring to noble Lords' attention the policy statement published in January by the Minister of State at the Department for Levelling Up, Housing and Communities, which sets out how the new requirements will work, including the application and rollout process that we envisage for the voter card. These proposals have been tried and tested, and not just via the pilots that we ran in 2018 and 2019.

Voter ID is used across the world, including in most European countries and in Canada. Indeed, it is not even a new concept in the United Kingdom, having been in place in Northern Ireland since 2003, when it was introduced by the then Labour Government. We therefore have an empirical example of how the rollout of such a measure can work. In fact, we know that not only has it been operating with ease for decades, it has been successful in upholding the integrity of elections.

Many across this House and the other place—again, this is an area that I expect to engage with in Committee—also have concerns about the integrity of absent voting methods. That is why the Elections Bill will also introduce measures to combat electoral fraud, and to ensure the integrity of the ballot in other ways. Voting by post and voting by proxy are essential tools for supporting voters in exercising their rights. They must remain available options for voters who may not wish to, or cannot, vote at a polling station.

It is not currently possible for electors to register for an absent vote online; those who wish to apply must do so via a paper form that is then posted to their local electoral registration officer. This is surely out of step with the process of registering to vote generally, which can be done online using the Register to Vote digital service for ease and convenience. The Bill therefore provides for an online service through which applications for an absent vote can be made. Identity verification for absent vote applications will be applied to paper applications as well as to applications made online. This will ensure that those applications are legitimate and the absent vote application process more secure, resilient and efficient for both electors and electoral administrators.

In addition, the Bill introduces further reasonable safeguards against the abuse of postal and proxy voting that will not complicate or hinder the process. They include new limits on the number of postal votes that may be handed in by any one individual, and provisions making it an offence for political campaigners to handle postal votes issued to others, unless they are family members or carers of the voter.

Of course, stealing someone's vote is not always personation or taking someone's postal ballot. There are also those who wish to intimidate or pressure people to cast their vote in a certain way, or not vote at all—something that is surely wholly unacceptable in any community in this country, in any part of this country, in the 21st century. The existing legislation on this, known as "undue influence", which originated in the 19th century, is difficult to interpret and enforce.

Through the Bill we will provide greater clarity to the police and to prosecutors, making sure that there can be no doubt that it is an offence to intimidate or cause harm to electors in order to influence their vote.

Part 1 also delivers the manifesto commitment of continuing our support of the first past the post voting system, and changes the voting system for police and crime commissioners, combined authority mayors and the Mayor of London from the confusing and overcomplicated supplementary vote system—

Noble Lords: Oh!

Lord True (Con): —to the tried and tested simple majority voting system, also known as first past the post. I knew there would be a great deal of interest in those provisions on the Liberal Democrat Benches. In the 2011 nationwide referendum— I hesitate to remind them—two-thirds of voters voted in favour of retaining first past the post for parliamentary elections. It is therefore only right that we are consistent in our approach to voting systems and reflect the view of the British people in these important elections. The change to first past the post will provide clear local accountability in a readily understandable way: the person chosen to represent a local area will be the one who directly receives the most votes.

Finally, in Part 1, we are ensuring that in choosing to cast their ballot in the polling station, those who require additional support to navigate that system can receive it. How that support is provided, and for whom, is important. This, again, is a matter which I know we will discuss in some detail.

One size does not fit all, and often serves only to narrow the scope and responsiveness of the system. That is why the Bill is introducing key changes from our call for evidence on access to elections. It will require returning officers to respond to local need and provide each polling station with equipment as is reasonable to support voters with a range of disabilities. We are also extending the definition of who can act as companion to anyone who is aged 18 or over, so as not to limit those people who may require assistance in voting.

Part 2 of the Bill pertains to the franchise. The Government's manifesto included a commitment to

"make it easier for British expats to vote in Parliamentary elections, and get rid of the arbitrary 15-year limit on their voting rights."

The Bill will fulfil this commitment. The existing time limit is anachronistic in an increasingly interconnected world. Most British expatriates retain deep ties to the United Kingdom. The Bill will therefore extend the franchise to all British citizens who have been previously registered or resident in the United Kingdom. In addition to that, the changes will facilitate participation by making it easier for overseas electors to remain on the register, with an absentee vote arrangement in place ahead of elections. This will also benefit those who administer elections.

Also relating to the franchise, Part 2 updates the voting and candidacy rights of EU citizens who reside in the United Kingdom, moving to a more reciprocal model fitting of an independent sovereign state. We stand by our commitments to those EU citizens resident here before our exit from the European Union. EU citizens who have been living in the United Kingdom since before the end of the implementation period on 31 December 2020 will retain their local voting and candidacy rights, provided they retain lawful immigration status. This goes well beyond our obligations under the withdrawal agreement and gives the lie to those who claimed that leaving the European Union was an act of xenophobia. For EU citizens who have moved to the United Kingdom following EU exit, local voting and candidacy rights will be granted on the basis of bilateral agreements with individual EU member states, which will reciprocate arrangements for British citizens living there too.

The third part of the Bill relates to the Electoral Commission, including reforming the accountability of the commission to the UK Parliament while respecting its operational independence. It was my noble friend Lord Pickles who found in his review on electoral fraud:

"The current system of oversight of the Electoral Commission—by the Speaker's Committee on the Electoral Commission—does not provide an effective third-party check on its performance."

The review was clear that the Electoral Commission needed to change. Part 3 of the Bill therefore introduces a strategy and policy statement, which will set out guidance and principles that the commission must have regard to in the discharge of its functions.

I have read the Electoral Commission's letter published on 21 February, and I cannot agree with the characterisation of these measures. The Electoral Commission will remain accountable to the UK Parliament and governed by their Electoral Commissioners. This Bill will not change that. The provisions of the Bill do not allow the Government of the day to direct the commission's decision-making, nor will it replace or undermine the commission's other statutory duties. This statement will be reviewed regularly and will be subject to parliamentary approval and, in applicable circumstances, statutory consultation. The UK Parliament will be able to reject in full any draft statement that it disagrees with.

The Bill also expands the remit of the Speaker's Committee on the Electoral Commission and empowers it to scrutinise the Electoral Commission's compliance with its duty to have regard to the strategy and policy statement. Through this, Parliament will be able to better scrutinise the work of the commission and together, these reforms will facilitate parliamentary scrutiny of the Electoral Commission's work, while respecting its operational independence.

Part 3 also clarifies that the Electoral Commission may not bring criminal prosecutions, as prosecutions for electoral law should remain with the existing prosecution authorities. Our view is that the proper place for criminal investigations and prosecutions lies with the experts in this domain, namely the police and prosecution authorities. We must not forget that the commission has never brought a criminal prosecution to date, and this provision merely maintains that status quo in practice. This means that our measure will not add any additional burden on prosecution authorities or lead to fewer prosecutions.

On Part 4, we already have a comprehensive regulatory framework for electoral campaigning, which is rooted in the principles of fairness, transparency and the importance of a level playing field. We must ensure that our electoral law continues to uphold these principles.

[LORD TRUE]

These measures take a proportionate and sensible approach to ensure that those campaigning at elections and seeking to influence voters are subject to transparency requirements and rules that effectively maintain that level playing field. By restricting all third-party campaigning above £700 at elections to UK-based or otherwise eligible campaigners, the Bill also removes the opportunity for ineligible foreign spending at UK elections.

There has been some suggestion that the Bill introduces a loophole to allow foreign donations to UK political parties. Again, I am sure that will be discussed. But I can assure this House that the Bill does no such thing. The measures in this Bill, together with existing controls on who can make political donations, provide a robust and transparent framework to ensure that only those with a legitimate interest in UK elections can spend money on campaigning or make political donations. Donations can only come from permissible donors who have a genuine interest in UK electoral events, such as UK-based or registered electors, UK-registered companies, trade unions or other UK-based entities.

The principle of transparency for the electorate is vital, but third-party campaigners subject to the new lower tier registration threshold will be subject to lighter touch regulation proportionate to smaller campaign spend. In a similar vein, the joint campaigning measures are simply intended to strengthen the principle of spending limits already in law that protect the integrity of the level playing field by ensuring that political parties cannot use campaign groups to unfairly exploit loopholes enabling them to expand their spending limit potential.

I wish to make it clear that our proposals on joint campaigning will capture the regulated election spending of political parties and third-party campaigners working together as part of a common plan, where the various groups are for all intents and purposes operating as a single group. They do not include political parties and third-party campaigners who are simply spending on the same issue or spending on campaigns that are not regulated by electoral law.

I am sure that many in this House will welcome the clarification of the law on notional expenditure included in the Bill that candidates and agents should only be liable for benefits in kind they have actually used, or which they or their election agent have directed, authorised or encouraged someone else to use on their behalf. This will ensure that candidates and their agents can continue to conduct full campaigns without the fear, as found by PACAC in its 2019 review into electoral law,

"of falling foul of the law through no fault of their own."

Part 5 of the Bill introduces a new offence aimed at helping to protect candidates and others from intimidation. Without a broad range of candidates for voters to choose from, we would diminish representation in this country and stifle discourse. To harass someone or to commit an assault are of course criminal offences already, but this Bill takes it a step further, and ensures that a person who has been convicted of an offence of an intimidatory nature can be banned and stripped of the privilege of standing for public office themselves for a period of five years.

Finally, Part 6 of the Bill delivers on recommendations made by Select Committees and the Electoral Commission to improve public trust and confidence in digital political campaigns. These are very important provisions. They introduce a new digital imprints regime which will be one of the most comprehensive in the world, increasing transparency and empowering voters to make informed decisions about the material they see online.

Before closing, I turn to the legislative consent Motions relating to the Bill. We worked closely with the devolved Administrations in preparing the policies for drafting into legislation. In order to deliver the benefits of coherence and consistency across some of the measures in the Bill, for both reserved and devolved polls, we sought legislative consent from the Scottish and Welsh Governments. Respecting the subsequent request from the Scottish and Welsh Governments to remove all aspects which relate to devolved matters, we are preparing the necessary amendments and will bring these changes forward in Committee. I welcome the indication which both Governments have given that they will consider legislating comparably across a number of areas.

At the beginning of my speech I emphasised that we have a strong history of democratic excellence and a shared devotion to democracy that brings together people on all sides of this House, and that we have a duty to regularly take stock and make the necessary changes that make it fit for the modern age. The sensible and considered measures I laid out here today will continue this legacy and raise confidence even further in our elections.

I assure noble Lords that I will listen extremely carefully, as ever, to all contributions made today and that I look forward to engaging with noble Lords as the Bill goes forward. I commend this Bill to the House.

4.12 pm

Baroness Hayman of Ullock (Lab): My Lords, we have heard from the Minister that the Bill intends to make substantial changes to our electoral law. Despite its stated ambitions, however, it does not tackle the fundamental and widely recognised need to consolidate the voluminous and fragmented body of existing law. In fact, it will do the opposite. Together with the secondary legislation needed for implementation, it substantially increases the complexity of our electoral law and brings in numerous measures about which we have serious concerns.

Having said that, I will start with some positives. It is important that the Bill looks to tackle intimidation, and we support the proposals to extend the imprint rules to digital communications and materials. The Electoral Commission has been calling for this for many years and it is a welcome step to bring our democracy into the 21st century.

On the subject of welcomes, I very much welcome the noble Lord, Lord Moore of Etchingham, to our House, and I am very much looking forward to hearing his maiden speech.

I will now raise our concerns about the lack of consultation and scrutiny received by many of the Bill's proposals. The Public Administration and Constitutional Affairs Committee agrees and stated in its report that the Bill

"received insufficient public consultation prior to introduction."

It further added that it

"should have gone through a pre-legislative scrutiny process, with a draft Bill being scrutinised by a Joint Committee. Given the lack of pre-legislative scrutiny and the significance of the measures contained in the Bill, the Government should place a statutory commitment to undertake post-legislative scrutiny on the face of the Bill."

In short, the whole thing seems to have been constructed based on not much evidence at all.

A more cynical mind might suggest that it is an example of Ministers choosing not to consult because they knew it would be a bruising experience that would not support their proposals. So I ask the Minister why the Government have not consulted on these provisions and whether he can assure your Lordships' House that

"a statutory commitment to undertake post-legislative scrutiny"

will be

"on the face of the Bill."

Clause 1 introduces voter ID at polling stations to address the electoral offence of "personation". However, personation is exceedingly rare in British elections, with just two convictions between 2010 and 2018. The Government have tried to justify their proposals through a precautionary principle: that it might be happening more. While there is nothing inherently wrong with taking a precautionary step, this seems a remarkable basis on which to introduce a policy that seems certain to deny many more legitimate votes than it will prevent illegitimate ones.

The issue of electoral fraud in Tower Hamlets is where this policy has come from, but the problem there related not to personation but to public funds, intimidation and the misuse of postal votes. The judge in the Tower Hamlets case, Richard Mawrey QC, told the Bill Committee in the other place:

"Voter ID at polling stations, frankly, is neither here nor there. Personation at polling stations is very rare indeed".—[*Official Report*, Commons, Elections Bill Committee, 15/9/21; col. 15.]

The evidence to support the introduction of voter ID simply does not exist. So why is there such a focus on polling station personation while offences committed via postal voting, where there is far more evidence of electoral fraud, are ignored?

Government data looks at how groups of the electorate will be affected by the introduction of voter ID, but it does not explore whether income level indicates whether someone will already have photo ID. The Joseph Rowntree Foundation has considered the impact of voter ID on low-income potential voters. Its research shows that they are less likely to have photo ID than wealthier potential voters. It suggests that 1 million people will therefore be less likely to vote under the new legislation.

The Government's own statistics show that 3.5 million people do not have access to valid photo ID. The reality is that these requirements discriminate against some groups more than others. As well as those on lower incomes, concerns have been raised that those who are disabled, older, younger or from ethnic minorities risk being disenfranchised. When voter ID was introduced in Northern Ireland, the turnout at the 2004 Assembly elections dropped by 2.3% as a direct consequence.

The proposals in the Bill expect people without the required ID to get a free voter ID card. Those without such ID are more likely to be excluded from society or disadvantaged, but the Bill contains no detail as to how these cards will be issued and administered, with significant details about the voter card application process left for secondary legislation. So how can the Government guarantee that no one will be disenfranchised?

Can the Minister justify the financial cost of introducing voter ID? The impact assessment suggests that it could be up to £180 million over the next decade. Between the lack of convictions for voter fraud, the lack of allegations and the lack of concern among the electorate, why are the Government proposing to spend up to £180 million to make it harder for some people to vote?

The Electoral Commission has said that the Government should do more to modernise electoral registration to ensure that as many people as possible are correctly registered. It has found considerable potential to evolve the current system to make it more joined up with other public services, and to explore automatic or more automated forms of registration. If we wish to strengthen our democracy, as we should, one of the best ways would be to drive up registration and turnout —so it is disappointing that Ministers have missed the opportunity to encourage participation in elections and do exactly that.

I want now to draw attention to the unique challenges that some disabled people experience when voting. While we welcome the Bill's stated ambition to make voting more accessible, the RNIB has expressed serious concerns that the current wording inadvertently reduces the legal protections for blind and partially sighted people. Will the Minister proactively work with the RNIB and other interested parties to address their concerns and bring in amendments so that no one is disfranchised because of a disability?

On the proposals on overseas electors, we have concerns that the motivation behind the change to remove the 15-year limit is about creating a loophole in donation law, allowing wealthy donors unlimited access to our democracy through unprecedentedly large donations, so I strongly disagree with the Minister's interpretation of this part of the Bill. Foreign donors should not be allowed to financially influence our democratic processes. Considering recent developments in Ukraine, the Government must be alert to how Russia and others could use illicit finance to influence our political system. Yesterday, my noble friend Lady Smith of Basildon asked the Leader of the House to commit to speaking to the Prime Minister and the Cabinet about removing these provisions from the Bill. I give notice to the Minister that, if this does not happen, we will bring in amendments to remove these loopholes.

At the same time as increasing the number of overseas electors that can register to vote, the Bill removes the right to vote from certain electors who are resident in the UK, such as some EU nationals. Again, on this issue there is nothing in the Bill that helps to solve an existing problem. A regular complaint from overseas electors is that they do not get their ballot papers in good time to return them to the UK for their votes to actually count. Nothing in the Bill explores using modern technology to speed up this process.

I turn to changes to the regulation of the Electoral Commission. We are very concerned about the intention to make provisions for a power to designate a strategy

[Baroness Hayman of Ullock]
and policy statement for the commission which will be drafted by the Government. This would seem to be political interference in the regulation of our elections, as the Bill gives the Secretary of State powers to direct the Electoral Commission and require it to follow instructions from the UK Government as to its activities and priorities. This calls into question the commission's independence from political control by the Government. We are in no doubt that this is a dangerous precedent. When we look to similar democracies, such as Canada, New Zealand and Australia, we see a complete separation between Governments and their electoral commissions.

The Government justify this change by saying that Ministers give guidance to other regulators, but these regulators are not responsible for ensuring that candidates, Ministers and political parties stick to the rules. It is essential that our regulatory framework strikes the right balance between upholding the independence of the Electoral Commission and ensuring that it is properly scrutinised and held to account. The Public Administration and Constitutional Affairs Committee is so concerned about the implications of the Bill on this front that it has recommended that the relevant clauses be removed pending a formal consultation on the proposals.

Part 4 of the Bill amends some of the existing rules that provide transparency and place limits on election campaign spending and funding, with proposals to change the rules on non-party campaigning. This will undermine the ability of civil society organisations, charities and trade unions to engage and campaign in our democracy. It must be seen in conjunction with the proposed extension of joint campaigning rules to include political parties. Plus, the effect of Clauses 24 and 25 together would be to allow the Secretary of State, by statutory instrument, to add, remove or define permitted participants in election campaigning, and therefore to effectively restrict categories of organisation from spending more than £700 on such campaigning in the 12 months leading up to a general election.

In a free and open democracy, elected Governments are scrutinised by opposition parties and civil society. That is part of what makes our democracy healthy. The freedom for civil society to do this and to hold those in power to account is a sign of a strong democracy. This Bill is an attack on some parties more than others. I would say that the attack on the trade unions, and the 6 million people who are members of trade unions, is an attack on all working people's rights to campaign for fair pay at work and health and safety in the workplace. It is also an attack on the very people who have brought our country through the pandemic. Trade unions are already incredibly heavily regulated and charities will feel stifled and gagged by the legislation before us.

Finally, on the introduction of a majority system for certain elections, we question why that change is needed. The Public Administration and Constitutional Affairs Committee is also correct on this that, regardless of arguments over the benefits or disadvantages of the changes made by the Bill to the electoral system of those offices, the way the proposed legislative change was brought in is unsatisfactory. Making changes such as this after the Bill has been introduced and debated at Second Reading in the other place is disrespectful.

In conclusion, this Bill creates more problems than it solves and is not proportionate. It is a waste of taxpayers' money that reverses decades of democratic process and needs to be completely overhauled.

4.26 pm

Lord Wallace of Saltaire (LD): My Lords, it is a very personal pleasure to welcome the noble Lord, Lord Moore, and say that I look forward to his maiden speech. When I was a student, the first by-election I worked in was the Cambridgeshire by-election of 1961 in which his father was a candidate. His father, as some Members of this House may already know, was a wonderful and inspiring speaker and would have been an adornment to this House. We hope very much that his son has inherited much of his fluency as a speaker and look forward to hearing more from him.

This Bill should never have reached Parliament in its current badly drafted and highly partisan form. The Ministers who presented it have made no attempt to build consensus on rules that are at the core of democracy. They have largely ignored four authoritative reports: first, the Law Commission report on the simplification of electoral law, published in March 2020; secondly, the Committee on Standards in Public Life—CSPL—review, *Regulating Election Finance*, published in July last year; thirdly, the Commons Public Administration and Constitutional Affairs Committee—PACAC—report on the Bill itself, published in December; and fourthly, the Intelligence and Security Committee—ISC—Russia report of 2018, which covered issues that this Bill addresses, making recommendations that the Government have also ignored. The Law Commission proposed to simplify and clarify the layers of legislation on electoral regulation. To the contrary, this 171-page Bill adds further layers of complexity. It is a major lost opportunity, as PACAC comments.

Part 4 of the Bill takes almost no account of the 47 recommendations for tightening controls on election donations and spending in the CSPL report. A Cabinet Office Minister told the Commons that there was insufficient time to include any of these in the current Bill. The Government nevertheless found time to introduce over 100 of their own amendments as the Bill as it moved through the Commons—strong evidence that the Bill had been insufficiently thought through beforehand. They even introduced a late amendment to narrow the voting system for mayors, without any prior notice to other parties. The Minister's introduction suggested that the Government intend to return all elections to what he regards as the tried and tested first past the post system. I assume he is aware that the devolved nations use and prefer different systems.

The PACAC Committee Report is the most damning. It highlights

"potential gaps in the evidence base for the proposed measures"

and states that many witnesses considered that the Government did

"'not have the evidence to understand the impact of their proposals'".

It notes that the Elections Bill "does not adopt any" of the recommendations of the Law Commission's 2020 report and says:

"Given the constitutional significance of the proposed changes to voting and the accountability mechanisms of the regulator of elections, the Committee is disappointed that a Joint Committee

was not appointed to scrutinise this Bill in draft, to help ensure the legislation is fit for purpose."

So a Commons Committee does not consider the Bill in its present state to be fit for purpose. It criticises the

"melange of delegated powers provided for in this Bill",

and bluntly states:

"The Government should present the draft secondary legislation as early as possible,"

as the previous Commons Minister had pledged to do. The Government have failed to provide this before the Bill reached the Lords.

The report goes on:

"Introducing a compulsory voter ID requirement risks upsetting the balance of our current electoral system, making it more difficult to vote and removing an element of the trust inherent in the current system … Given the potential for a significant number of people not to vote as a consequence of the Voter ID requirement, the Government should not proceed with its proposals"

until further evidence has been provided. It then details the practicalities of implementation and the additional burden on polling station staff, which also need to be clarified.

The report is equally scathing about the further complications the Bill proposes about who can vote in UK elections and who cannot. It recommends giving the vote to all who have settled status on a residency basis, rather than extending the historical anomalies we have inherited. The practicalities of extending the rights of overseas voters have also not been explored. Its potential addition of several thousand extra voters to some constituencies—mainly urban—would negate the Government's aim to reduce the variation in voter numbers from one constituency to another. Checks on their status and claims will be minimal, in contrast to the additional checks on those who vote in person.

I will leave it to others to discuss the complexities of regulating third-party campaigns and of electronic campaign material—both important issues to which the Committee should devote considerable time. I want to flag up the constitutional importance of maintaining and strengthening the role of the Electoral Commission, and of tighter regulation of campaign finance.

The Conservative Party says that it has lost confidence in the Electoral Commission. The CSPL could not find anyone—any witness—outside the Conservative Party who had lost confidence in the Electoral Commission. The PACAC report concludes,

"The Government has not provided sufficient evidence to justify why the proposed measures are both necessary and proportionate. We therefore recommend that Clauses 13 to 15 of the Bill are removed, pending a public consultation".

I hope the House will follow that advice. The proposals, the PACAC remarks,

"risk undermining public confidence in electoral outcomes".

Again, it notes that

"there was no formal or public consultation … and that there is a lack of supporting evidence to demonstrate that the proposed measures are both necessary and proportionate".

The ISC Russia Report calls for the Electoral Commission to be strengthened, not weakened, saying that

"we have already questioned whether the Electoral Commission has sufficient powers to ensure the security of democratic processes where hostile state threats are involved; if it is to tackle foreign interference, then it must be given the necessary … powers".

The Government's response to the ISC's call for them to publish the evidence they had gathered on foreign influence over campaigns was simply to state:

"We have seen no evidence of successful interference".

They refused to publish while carefully not denying that such interference has been attempted and that there is evidence of it. We are entitled to know about attempts to corrupt our political processes, particularly when they focus on the party in government.

Part 4 loosens, rather than tightens, the control of expenditure. Britain has a party system in which one party can raise far more money than others, in increasingly large sums from a small number of wealthy donors. The United States is the only other democracy in which controls on party finance are so lax. The Bill aims to enable the Conservatives to entrench that advantage by loosening controls on how those funds are spent.

The Government published their response to the PACAC report quietly last week. It failed to address most of the committee's powerful criticisms.

This is a constitutional Bill. It reshapes the rules of political campaigning and elections—central elements in a constitutional democracy. I hope the Minister will not try to push it through unchanged, stonewalling in overlong speeches into late-night sittings, as he did on the Dissolution and Calling of Parliament Bill. He used to be a constitutional, one-nation Conservative. He has now become a Johnsonian populist, contemptuous of parliamentary scrutiny channelling the Prime Minister's interpretation of the people's will, as he has told us on several occasions.

I remind the Minister of two very different speeches about freedom and democracy in the last two weeks, representing incompatible understandings of Conservative values. The chairman of the Conservative Party, Oliver Dowden, made an extraordinary speech in Washington to the Heritage Foundation about threats to freedom. He asserted that these threats are now centred in our universities and schools—in intellectual elites questioning established values. He said nothing, to a Trump Republican audience, about the threats to freedom from those who refuse to accept the outcome of elections, encourage mobs to attack the legislature, erect barriers to voting by disadvantaged groups, and redraw the boundaries of electoral districts to favour one party against others. His silence suggests that he does not think that constitutional rules matter in democratic politics. This Bill arrives in the Lords with worrying echoes of American Republican ambivalence about democracy as such.

In contrast, Sir John Major, when speaking to the Institute for Government, warned:

"Our democracy is a fragile structure: it is not an impenetrable fortress. It can fall if no-one challenges what is wrong, or does not fight for what is right. The protection of democracy depends upon Parliament and the Government upholding the values we have as individuals, and the trust we inspire as a nation."

I wish I could be confident that the Minister agrees with Sir John, rather than Mr Dowden.

This Bill aims to tilt the rules of campaigning further in favour of the Conservative Party. It would be a contempt of Parliament for the Government to push it through without careful examination of its

[Lord Wallace of Saltaire]
half-digested proposals. If it becomes necessary to carry it over into the next Session, that would be better than rushing through democratically dangerous regulations. If the House considers that some clauses require more detailed examination in a Select Committee, following the Commons committee's criticisms, then so much the better. Constitutional Bills deserve and require far more examination than this Bill has received so far.

4.38 pm

Lord Judge (CB): My Lords, I shall concentrate on Part 3, for today's purposes at any rate, and will to some extent repeat what the noble Baroness, Lady Hayman of Ullock, had to say. Surely we all understand that there is a constitutional necessity, in a system of democracy based on universal suffrage, that any electoral commission should be wholly and totally independent.

Noble Lords: Hear, hear.

Lord Judge (CB): I imagine that I heard "Hear, hears" on the government side of the House, as I did among the Cross Benches, so I repeat: surely we understand the constitutional necessity, in a democracy based on universal suffrage, that there should be an independent Electoral Commission.

Noble Lords: Hear, hear!

Lord Judge (CB): What do I mean by "independent"? Independent of all political parties—that is easy, but there is a further step. The commission must be independent of all direct or indirect political influence, which is rather different, and vested with the responsibility on behalf of the electorate—the entire electorate, whoever they vote for or whether they do not vote at all—first to diminish to extinction the possibility that the party in government would have any sort of undue influence over the election. I should not have used "undue"; there can be no such thing as any influence, however slight, that is not undue. The second consideration is that the electorate must be satisfied that the system protects the independence of the Electoral Commission. It is not just a matter of what the law is—although, as I say, I shall endeavour to explain why in this Bill the law does not protect that—it is about the perception that it is independent. We should look at what is proposed here.

"The Secretary of State may designate"—

so that is the power—

"a statement for the purposes of"

the Act. What is the statement?

"The statement is a statement prepared by the Secretary of State that sets out"—

and I shall go slowly through these words even though I have only six minutes—

"strategic and policy priorities of Her Majesty's government relating to elections".

Could the Bill not at least have had the courtesy to say "the strategic and policy priorities of Her Majesty's Parliament"? New paragraph (b) provides for the statement to set out

"the role … of the Commission in enabling Her Majesty's government to meet"

their own priorities. New subsection (3) says:

"The statement may also set out … guidance relating to particular matters in respect of which the Commission have functions".

I will pause there. That is its duty, and it will be subject to reference to the Speaker's Committee. No disrespect to the Speaker's Committee, but what is its function? Its function is to see that the Electoral Commission has carried out its own statutory obligations.

What is chilling about the present proposal is that there is no room for the Electoral Commission to say, "We don't agree with that. That has a huge political advantage for the Government in power." It might even want to say, "That has a huge advantage for the Opposition", but it has no discretion of any kind to say, "We disagree with the directives given to us in the guidance or this statement of policy priorities." It cannot do that; nor can the Speaker's Committee. The committee does not have the power to do so; it is simply there to make sure that the Electoral Commission does what the Secretary of State has ordered it to do. It is simple enough to read the statute, and I venture to suggest that this is what it says. It is no answer to say that the commission must have regard to the statement when carrying out its functions, as though that imposes a limitation. What it is imposing is an obligation—"must have regard to". Is that really what we want? We need to think rather carefully about what Part 3 provides for.

I have time for one sub-point. The obligation on the Secretary of State is to consult PACAC, among others, before the statement is produced. If so, why will the Government not listen to PACAC's observations on this part of the Bill:

"The Government has not demonstrated that the proposed measures impacting the Electoral Commission are both necessary and proportionate, and therefore risks undermining public confidence in the effective and independent regulation of the electoral system"?

That is not the end of it. The report goes on to recommend—on top of its series of recommendations about every one of these clauses suggesting modification and improvement—that:

"Clauses 13 to 15 of the Bill are removed, pending a formal public consultation"

and that the body that is supposed to be consulted by the Secretary of State should be allowed to have its say and have another look.

4.44 pm

Lord Moore of Etchingham (Non-Afl) (Maiden Speech): My Lords, I must thank the noble Lord, Lord Wallace of Saltaire, for his particularly generous remarks about my late father. I was very touched by them, and I will return to them because they are relevant to the theme of my speech today.

I must first apologise to this House for my delay in making this speech. I have spent my life as a newspaper editor, journalist and writer and we of course live by deadlines, but there is no deadline for making a maiden speech so I have procrastinated. But I hope I have some excuse. I was introduced when Covid-19 was going strong, and I found it difficult to acquaint myself with your Lordships' House in hybrid form. A Parliament means a place where people speak, but the pandemic muffled normal speech. Many of your Lordships could not attend in person; many members

of staff were working from home. I thank them all warmly for their kind efforts on my behalf, and it was not their fault that I was uncertain what I should be doing. Today it is an honour—and I must say a relief—to be addressing a fully functioning House at last.

I come from the county of Sussex. Nowadays Sussex is regarded as rich, but our eastern part of the county has traditionally been poor. A few years ago, the *Tatler* magazine published a satirical illustrated map of Sussex; our little rural patch was marked by a large cactus and the words "Social Desert". We felt perversely proud of that. Even today, my birthplace, Hastings, is well known for areas of persistent poverty. Robert Tressell's famous Edwardian socialist novel about poverty, *The Ragged Trousered Philanthropists*, is set in Hastings. It is subtitled "A season in Hell". I maintain that modern Hastings has many glimpses of heaven, but problems do remain.

Hastings helps explain my interest in the Bill that we are debating today. In 1844, my great-great-grandfather, Robert Ross Rowan Moore, stood there as the free trade, anti-Corn Law candidate. In those days, the fishermen of Hastings did not have the vote, but they did support free trade. By law, no candidate could be elected unless present in the constituency on polling day, so the fishermen kindly proposed to kidnap my ancestor's rival, the Tory candidate, and take him out to sea. Sadly, Robert Moore refused the fishermen's offer and therefore lost the election, but my family still possesses a roll which names the

"one hundred and seventy-four honest and independent electors who voted for Robert R. Rowan Moore and free trade."

In those days there was no secret ballot. Indeed, that great liberal John Stuart Mill was actually opposed to a secret ballot. He believed that honest men—and it was only men in those days—should publicly declare their allegiance. He was frightened of the corruption that goes with secrecy. As the 19th century progressed, however, people realised that only a secret ballot could prevent intimidation by powerful interests. In 1872 the Ballot Act was introduced. All of us in your Lordships' House are disfranchised in general elections, so we can look at the matter disinterestedly, I think. I am sure that we all agree that the secret ballot was the right way to go. It was the key means of obtaining the universal franchise which lies at the heart of the development of our modern parliamentary democracy.

It follows that the ballot must be carefully protected from the corruption arising from secrecy which Mill feared. The integrity of the universal franchise is guaranteed by methods of registration and scrutiny. This has been essential for public trust. My late father, whom the noble Lord, Lord Wallace, mentioned, was a lifelong Liberal, and frequently a candidate. He therefore had the distressingly wide experience of losing at nine general elections. I remember, however, that he always expressed complete confidence in the functioning of the system, with one notable exception. This was when he stood in Northern Ireland in 1966. There, the split in the community was so entrenched that cheating was endemic. My father met a man who claimed to have voted unionist 92 times at the previous election and was offering to transfer his favours to him. He high-mindedly refused; like his great-grandfather in Hastings, he remained unelected.

The fact that voting in Ulster was often cooked was a symptom of democracy impaired. That is why Northern Ireland today is particularly careful, more so than the rest of the United Kingdom, to protect the integrity of the ballot. A painful history has taught this lesson.

The benign consequences of electoral trust are extremely high. When working on my biography of Margaret Thatcher, I was struck by how she, and most mainland candidates in the middle of the last century, could draw on public confidence in the ballot. In the 1950 and 1951 general elections, she had no hope of beating the Labour candidate, but the sense of engagement was strong. By the time she had left Dartford, she had raised membership of her constituency Conservative association to 3,160, a figure roughly 10 times greater than modern party memberships even in safe seats. No doubt much of this was due to the young Margaret's phenomenal energy, but there was also widespread faith in the poll itself.

Nowadays, I think this faith is declining. There is serious controversy about personation, intimidation, proxy votes, postal vote harvesting and so on. In the United States, such issues are now so partisan that they threaten to undermine faith in voting altogether. We must not go down that path.

I have a small direct experience of this issue. Before entering this House, I was legally registered to vote in two places: at home in Sussex and in central London. There seemed to be no check on whether such people, of whom there are hundreds of thousands, were voting twice. In the EU referendum of 2016, I therefore decided to expose the problem. I voted normally in Sussex and then went to London. There, I entered the polling station and handed over my legitimate polling card. I went into the booth and wrote, "I am spoiling this ballot paper in order to show how easy it is to vote twice", and then I submitted it.

I later described this in the *Daily Telegraph*, hoping to help the Electoral Commission by drawing attention to the dangers of abuse. After a bit, I got a call from the police asking to come and see me. The officer who arrived was very kind and a little embarrassed. She said that the police were acting at the request of the Electoral Commission. Although I had cast only one vote which could affect the result, she explained that, according to law, I had voted twice. The Electoral Commission wanted me prosecuted, but the police had decided that a prosecution would not be in the public interest. "Please don't do it again," she politely added. Some noble Lords may think I acted foolishly, but I hope they can accept that my motive was public-spirited. I must say I remain disappointed that the Electoral Commission showed more zeal in chasing me than in stopping potential abuse.

There are strongly differing views about this Bill. Some rightly worry that too close an invigilation of voters' identity could deter whole classes of people from exercising their democratic right. Others see greater danger in leaving the vote so open to abuse that elections can no longer achieve a true representation of the people. In a maiden speech, I should not come down hard on one side, but I hope that we, who cannot vote in elections to another place, can unite in recognising that the integrity of the ballot really is a sacred trust. It is a simple act to write a cross beside

[LORD MOORE OF ETCHINGHAM]
the name of the candidate you prefer, but behind that act lies a long history of legislation and enforcement which is the work of a high civilisation. It is a continuing, delicate work which we must assist.

4.52 pm

Lord Butler of Brockwell (CB): My Lords, it is a great privilege and a pleasure to follow the noble Lord, Lord Moore, and to be the first to congratulate him on his delightful maiden speech. The noble Lord acknowledged that it has been a long time coming, albeit with good reason. I think the whole House will agree that it has been worth waiting for and that it amply fulfilled the expectations of those who have previously spoken.

As with John Morley always being remembered for his *Life of Gladstone*, when we are all forgotten, the noble Lord will be remembered for his biography of Margaret Thatcher. Like many others, I gave him such help as I could in that endeavour, in the belief that I was contributing to the objective and definitive history of that time. My trust was never abused and was amply rewarded by the outcome. It is our good fortune that the stimulus and enjoyment which the noble Lord gives us each week through his columns in the *Spectator* and the *Telegraph* will be extended to his contributions in this House. I hope we will receive them on a similarly regular basis.

I want to make three short points about the Bill. First, I regret that it has not been subject to pre-legislative scrutiny or, even better, a Speaker's committee in the other place. It is desirable that legislation on this subject should be submitted to the views and contributions of all parties and, if possible, introduced with all-party agreement. If that does not happen in the Commons, it invites partisan disagreement in this House, and it is clear from the speeches that have already been made that that has not happened. For that reason, it will encounter more difficulties in this House than it otherwise would have done, which is regrettable.

Secondly, we live in a time in which the means of distorting information available to voters have grown hugely in their reach and influence. It is necessary for legislation to protect voters, as far as possible, against the intervention of those with the means and resources to subvert the democratic process, whether that subversion comes from state actors or other interest groups. In this context, the Bill is inadequate. As has been stated, it does not address the concerns expressed by the Intelligence and Security Committee or, more recently, the Committee on Standards in Public Life and the Foreign Affairs Select Committee in another place, about the dangers of secretive campaign finance coming from foreign sources. In passing, I cannot help referring to the paradox that, in my time in government, we used to worry about subversive finance from Russia to the Labour Party; now we worry about subvention from Russia to the Conservative Party.

Seriously, however, I ask the Minister to tell us what the Government are doing about these reports, particularly in current circumstances. I say with all due respect to him that it is not sufficient to say that the Government always consider the advice they get from wise committees and then do nothing about it. These committees are indeed wise. As those of us who serve on Select Committees and other committees find, they take a great deal of evidence and receive contributions from experts, and they need to be taken seriously. There is not likely to be another opportunity for legislation on election issues during this Parliament, and so these matters need to be dealt with in the Bill. The committees that have made recommendations need and deserve a serious response from the Government before the Bill is considered. I mention particularly the threat through unincorporated associations identified by the Committee on Standards in Public Life, and I ask the Minister in his response to deal with that.

Finally, the Electoral Commission is the instrument through which we seek to ensure a level playing field. Like others, I remain to be persuaded that it is necessary for the Executive to interfere with the independence of the commission through a strategy and policy statement, especially one prepared by the Government, with their own majority in the House of Commons and their own electoral interests. I hope that the House will look very carefully at that provision in the Bill.

4.59 pm

Lord Pickles (Con): My Lords, it is a particular pleasure to have listened to the maiden speech of the noble Lord, Lord Moore. I had the opportunity a few years ago to be on the panel of "Any Questions?" with the noble Lord in which he compared me and my fellow Liberal Democrat coalition Minister to two characters in Beatrix Potter. It was of course a scarring event, but I reflected on the journey home that I was very grateful that the noble Lord's taste in literature did not run to the rummy. I look forward to many speeches and to see the great biographer of Lady Thatcher in this Chamber and I am sure that we will look forward to many years of his contributions.

As my noble friend the Minister said, much of the Bill is based on a report I produced for the Government a few years ago. I am obviously pleased that many of my recommendations have been accepted and I take full responsibility for them. But I hope that my noble friend will not think me churlish if I start with a measure that I have some reservations about. The Bill seeks to change the requirement for the visually impaired to have use of tactile devices to aid independent voting. I understand the laudable reasons for allowing greater choice of equipment, but in practice I am not sure that this will be the case. In Committee I will be looking for greater reassurance and possible amendments to meet the concerns of those professional organisations working in the sector.

I noticed in another place when this Bill was debated—and reflected in some of the briefing we have had—the suggestion that this Bill was unnecessary. They point to the low number of prosecutions and suggest that everything in the world of elections has reached a point of perfection and that any amendment would risk the very foundations of democracy. But it raises legitimate questions. Is there widespread corruption in our electoral system? Leaving aside that by its nature the crime is difficult to detect, and there is a strong element of underreporting, I saw no conclusive evidence to suggest that there was widespread and systematic corruption within our system.

But that misses the point. If there was widespread corruption in the system, it would already be too late. This House and another place would be stuffed to the gunnels with people with a vested interest in retaining corrupt practices. Our system relies so much on reasonable behaviour and trust. To misquote Sir John Major, it is a system of warm beer and elderly ladies cycling to Evensong. But we have been warned, not just by the Electoral Commission but by the Council of Europe. It was clear when it said:

"It does not take an experienced election observer, or election fraudster, to see that the combination of the household registration system without personal identifiers and the postal vote on demand arrangements make the election system in Great Britain very vulnerable to electoral fraud."

There seems to be some consensus on the need to reform postal voting. I received many representations that postal voting on demand should end. But I took the view that it was not desirable to return to the previous system, as on demand reflects a more mobile society. However, safeguards are long overdue: banning political campaigners from handling postal votes and, with some limited exceptions, making it a criminal offence; stopping postal vote harvesting by limiting the number of postal votes that a person may hand in on behalf of others; extending the secrecy provisions that currently apply at the polling stations to postal votes; requiring those registered for postal votes to reaffirm their identities once every three years; and limiting the number of people for whom someone can act as a proxy to four, regardless of their relationship.

During my report I took evidence from a number of returning officers. We held a seminar where good and bad practices were examined. I was told shocking stories of mass door-to-door collections of postal votes by candidate supporters, of blank postal votes being handed in as a demonstration of loyalty and of boxes of postal votes delivered by political parties to polling stations at 6 pm on polling day. The measures in this Bill are long overdue.

We should also bear in mind that we are talking not just about an election system but about a way of ensuring an anti-corruption policy in public life. I am not sure I would waste a lot of resources corruptly trying to get a Member of Parliament elected, but our councils, with their billion-pound budgets, are a great prize to take. Many can be turned over by simple action in one or two wards. We have seen what happened in Tower Hamlets, and it is my sincere hope that Tower Hamlets does not represent the future. I commend this Bill and look forward to Committee.

5.05 pm

Lord Blunkett (Lab): My Lords, I, too, pay tribute to the noble Lord, Lord Moore, on his very amusing maiden speech. I ought to be pleased that one fewer Conservative vote will be cast in the next general election, but I have to tell him I think it is a complete anachronism that your Lordships are unable to vote, and I hope that at some point we will put that right.

I have great respect for the noble Lord, Lord Pickles, who has just spoken. We have had robust and often constructive exchanges in the past, and I respect greatly the action he took in relation to Tower Hamlets. But this evening we have to be extremely careful that, with the measures we take to overcome whatever problems we currently have within the system—and we should address them—we do not give the impression out there in this country that there is a serious problem with our electoral system. I say to the noble Lord, Lord Moore, that that is precisely the insidious worm that got into the Republican Party in the United States and led decent people to start mouthing platitudes about the ballot being rigged and the fraud within their system. If we get that here we will be in real trouble. So let us address where there is clear evidence of fraud or misuse and try to identify the problem. Who is in favour of the change in the problem, as was referred to by the noble Lord, Lord Wallace? Do the measures we will debate tonight and in Committee achieve the goal that has been set out? If we can answer those questions honestly and clearly, we might get somewhere.

I have very little time, and I know people will be waiting to speak later in the evening, so I want to say just two things. First, I thank my noble friend Lady Hayman and the noble Lord, Lord Pickles, for their mention of those without sight seeking to exercise an equal vote on the same terms as anyone else, and I hope we will be able to put that right. My main thrust, however, is to pick up on the speech of the noble and learned Lord, Lord Judge, which I thought, as with other Opposition Front Bench speakers, was extremely powerful. What we do through this Bill will have implications for our standing and reputation internationally. We should not underestimate the danger of meddling with and undermining the independence of the Electoral Commission. Of course there can be improvements in how it operates, and we should concentrate on those. But, as the noble and learned Lord said, handing over to government the strategic and policy priorities of what is supposed to be an independent body goes to the very core of our democratic process.

On 9 September last year, we had a debate in this House on the issues around public life. We debated the first interim report of the Committee on Standards in Public Life, which has reported further since. At that time, in what I thought was a very thoughtful debate, there was a consensus that it is really important that no political party misunderstands its role.

When a political party becomes the Government, it does not automatically embody, on behalf of the nation, its party and its ideology. The Conservative Party and the Government are not one and the same thing, and we should avoid them becoming so, any more than the Bolsheviks thought that taking power meant that that held them as the voice of, and the only voice of, the nation. I mention the Bolsheviks because, of course, someone giving £1.8 million might have an interest in the well-being of our country but their husband may have a different interest altogether.

Let us be absolutely clear this evening: if we interfere, as this Bill does, with the independence of the Electoral Commission, we will send a signal not only to our own country and our own people but across the world. Disentangle the Conservative Party from the running of this country on behalf of the whole of this nation, and then we might get it right.

5.10 pm

Lord Rennard (LD): My Lords, over the past 200 years, historically significant Bills have come before Parliament to allow a greater number of our citizens to vote. A number of them were referred to in the excellent and entertaining maiden speech by the noble Lord, Lord Moore of Etchingham, whose late father I also remember with great affection—we campaigned together a number of times. However, this Bill reverses that process by creating unnecessary barriers to participation by people who are legally entitled to vote. At the same time, the Government are deliberately failing to act to ensure that many others who are legally entitled to vote are included in the list of people able to do so. There is little in the Bill to welcome.

No other country has such strict provisions as requiring photo ID to vote without some provision being made for those people who go to a polling station without it. The proposed requirement for photo ID goes significantly further than the proposals made by the noble Lord, Lord Pickles, in his government-inspired review of electoral laws. The Commons Public Administration and Constitutional Affairs Select Committee, with—I emphasise this point—its Conservative majority, said:

"We are concerned that the evidence to support the voter ID requirement simply is not good enough."

I have previously urged the Government to investigate the number of people who arrive at a polling station to find that their vote has already been cast. The Government will not do this, and that is clearly because the evidence from returning officers confirms that it is an extremely rare event. Even when it happens—if it happens—there is a process by which anyone in such circumstances can still claim their vote. Their vote is simply given a different coloured ballot paper which is put aside but which could be counted if relevant to the outcome of the election and investigation required. In contrast, if a parcel at the post office is taken by the wrong person, it cannot be replaced, but at a polling station, a replacement ballot paper is issued in the unlikely event that the person's name has already been crossed off the list of those who have already voted. In other words, a parcel cannot be replaced and appropriate ID is necessary before it is handed over, but a stolen ballot paper can be immediately replaced, so photo ID is not necessary. All the evidence is that this virtually never happens.

The projected cost of introducing photo ID in the Government's own impact assessment amounts to £180 million over 10 years. How many times do we debate necessary things in this House which might require a sum smaller than £180 million and the Government say there is no money, yet they are willing to commit to this extremely wasteful expenditure for which the motivation is suspect? It will affect some communities disproportionately, and these are communities that are already underregistered.

Some of the measures in the Bill are welcome, such as the principle of extending the franchise to all UK citizens living overseas. They have a stake in our country's future, but they do not generally have a stake in a particular constituency where they may not have lived for many decades. The proper way of enfranchising them would be to do what they do in France, for example, and create dedicated constituencies for overseas citizens, so that their special interests are properly represented.

However, the Bill is not about enfranchising them, as claimed. How do we know that? Because it is still incredibly difficult to vote from abroad. The proposals in the Bill for registering people who have not been on the voting register in the last 15 years are incredibly problematic. For those who are registered, proxy voting is often difficult to arrange, so postal votes must be applied for and granted. When nominations close, ballot papers must be printed, and then posted abroad. When completed, the ballot papers must work their way back through different countries' postal systems, and very often they do not arrive with the relevant returning officer by polling day. These problems must be addressed, and allowing postal vote applications to be made electronically is insufficient.

The real reason for extending the franchise is not about voting rights but about donations, which must come from individuals on the voting registers. In December 2019, the then Minister for the Constitution announced to the other place that the maximum limits on expenditure by political parties in a general election could be increased considerably, since they were set in 2000. In 2000, Parliament was asked to support the creation of a more level playing field in national elections. Since then, only the Conservative Party has come close to the maximum of £20 million. So an increase now would favour only one party, the Conservative Party, and the principle previously agreed by Parliament, of seeking a level playing field, would end. The Government then suggested that the increase should be in line with inflation since 2000. That is now about 79%, and would mean increasing the limit from approximately £20 million to £36 million. Will the Minister say that this will not happen? He should bear in mind that, in 2019, the *Times* showed that 28 out of 93 British billionaires have moved to tax havens or are in the process of relocating. The Bill will facilitate billionaire tax exiles, who may not have lived here for decades, contributing to the Conservative Party.

5.17 pm

Lord Green of Deddington (CB): My Lords, I congratulate my noble friend Lord Moore of Etchingham on a remarkable, welcome and amusing speech. It is a very difficult one to follow.

There are some very important issues in the Bill, and we will come to them later. My purpose today is to draw noble Lords' attention to an anomaly in our election law which, thanks to this Bill, we have an opportunity to correct.

Under current arrangements, Commonwealth citizens have the right to vote in British general elections. However, the present law does not include any length of residence test. Now that election registers are revised every month, that right becomes available virtually on arrival to anyone from Commonwealth.

Some noble Lords will recall that, in 2008, the noble and learned Lord, Lord Goldsmith, the former Labour Attorney-General, produced a report on nationality matters. In it, he recommended that the

automatic right for Commonwealth citizens to vote in general elections should be phased out. In support of his recommendation, he made three points. First, that most countries do not permit non-citizens to vote in national, or often even local, elections. Secondly, that it is right, in principle, not to give the right to vote to citizens of other countries living in the UK until they become British citizens. Thirdly, that this change would restore the significance of citizenship and help people to be proud of achieving it. However, despite these arguments, as some Members will recall, no action was taken on this matter by either the Labour Government or subsequent Conservative or coalition Governments.

Reciprocity is one aspect of this. In 39 of the 54 Commonwealth countries, British citizens do not have the right to vote until they become citizens of these countries. In nine Caribbean countries, British citizens can vote—normally after 12 months' residence. It would not be fair to deny to nationals of these countries the right to vote in Britain, provided that right remains reciprocal. There is no question of removing the vote from those who already have it—that would be absurd. But the matter is still quite important, because the inflow of Commonwealth citizens who are not UK citizens is in the order of at least 100,000 a year. There are, of course, some political angles to this. For example, the Labour Party's policy platform before the most recent election, as decided by their 2019 autumn conference, included a pledge to give voting rights to everyone living in the UK, whatever their citizenship. That would have immediately added several million new voters to our electoral rolls.

I see that the noble Lord, Lord Blunkett, is in his place. He commented at the time that opponents would characterise this as a,

"reckless policy to throw open not only our borders but our system of democracy".

As usual, the noble Lord hit the nail on the head.

This Bill is a valuable opportunity to clear up the present anomaly and to put virtually all foreign citizens on the same basis. I shall be in touch with the experts to draw up a suitable amendment. Finally, I should make it clear that such an amendment would not affect Ireland, with which we have had reciprocal arrangements since 1922. It would, however, affect Cyprus and Malta. We have an opportunity to clean this up, and I think we should do it.

5.22 pm

The Lord Bishop of Coventry: My Lords, I too join in thanking the noble Lord, Lord Moore, for his subtle and penetrating speech. I do so as someone who originates from Sussex, albeit the western part.

I shall address just one aspect of this Bill—the introduction of photographic ID. Other noble Lords have already raised specific issues presented by this clause. I echo their concerns, and I question whether photo ID is consistent with the UK's democratic heritage. The fundamental duty of government as we know it is to ensure that all citizens have access to the resources they need to play a full part in the democratic process. Any action that risks reducing democratic engagement, especially one which excludes a significant sector of society, needs the most careful consideration, and it should be based on very sound evidence.

I am concerned that the Bill's intention to increase trust in the reliability of the voting procedures risks reducing it. Currently, 90% of those asked by the Electoral Commission's public opinion tracker see voting and polling stations as safe from fraud and abuse. This is precisely because we expect the Government to allow us to take part in the democratic process—if we choose to—without putting measures in place that might impede it. The high level of trust in our electoral system seems to raise comparison with the use of voter ID in Northern Ireland. As the noble Lord, Lord Moore, said, this derives from a historic mistrust among all communities about elections being free and fair. There is no such mistrust in this case. As the noble Baroness, Lady Davidson, has said, this is trying to solve a problem that does not exist—and that makes it politics as performance. Politics is, in many ways, a performance, but the performance should come second. Any performance which could disenfranchise voters risks withholding recognition from individuals and cultural communities.

As your Lordships have heard, the Joseph Rowntree Foundation indicates that 1.7 million low-income voters could be disadvantaged. This would constitute moral injury and would be an injustice. A significant proportion of low-income voters are likely to come from UK global majority backgrounds or from white working-class communities. Both are among the least likely to own photographic ID or to have ID which would be recognised, because of the current costs of obtaining them. It has also been found that those with learning difficulties are likely to find it an obstacle too high to climb, as the Cabinet Office's research showed.

Many in these already disadvantaged communities, the very people whom the Government's laudable levelling-up agenda seeks to raise up, are less likely to have the time, access to equipment, or desire, to fill out additional forms or to register for the voter ID cards than more advantaged people. The Joseph Rowntree Foundation also found that 41% of those with unsuitable ID were unsure whether they would apply for free voter ID cards. Legislation that may make democratic participation for the most vulnerable and marginalised in society harder fails to meet the Government's responsibility to enhance the practice of democracy and maximise involvement in the common project on which society is built.

Within the Bill, there is a commitment to a consultation with the electoral community on how the voter ID law would be introduced. Does this mean that the Government recognise the possibly harmful effects of making this a requirement? Will they seek to mitigate them through secondary legislation? If that is the case, why is the consultation coming after the law has been passed and not before? At the moment, the proposal for voter ID fails to provide the assurance that every voice in our community will be heard. If the Government proceed as planned, which I recognise is the manifesto pledge, I would support amendments that introduce mitigating factors to the Bill and reduce the risk of unintended exclusion.

5.27 pm

Lord Hayward (Con): My Lords, I thank the Minister for the opportunity for his Elections Bill officials to have discussions with me about potential amendments

[Lord Hayward]
which I might bring forward. That may worry the Minister that I will bring forward amendments, but I hope that they will improve the operation of the Bill and of elections in this country, nationally and locally.

This Bill should be about four different aspects, one of which there has been virtually no reference to so far in this debate—the administration of elections as undertaken by our returning officers, who do a truly superb job, despite the propensity of politicians of all political parties to impose an ever-greater burden on them, with the expectation that the elections will be administered effectively, openly and on time. There may be some discussion in that field.

Secondly, the noble and learned Lord, Lord Judge, touched emphatically on another field, the overall regulation by a body—in this case the Electoral Commission—and how it should operate. Clearly, there will be much discussion about that element of how we handle elections, as there should be. The Electoral Commission is a relatively new body, and it is worthwhile, at this point in a Bill, to look at how it operates and should operate.

The third field is an area which I regret has been omitted from this Bill, and which has been touched on by a number of noble Lords, the first of whom was the noble Baroness, Lady Hayman: the report of the Law Commission, which said that, effectively, our electoral law is a mess. We operate on 25 different pieces of major electoral legislation. Its report said:

"The current laws governing elections should be rationalised into a single, consistent legislative framework with consistent electoral laws across all elections, except where there are clear and necessary differences, for example due to different voting systems."

Some of the amendments, to which I referred in my opening comments, fall within that field to at least introduce a degree of consistency—even though we will not have, disappointingly, a rationalisation of the mess of electoral legislation that we all face at the moment.

Fourthly—and this comes to the nub of the early parts of the legislation, to which the noble Lord, Lord Pickles, spoke—there is the issue of fraud, in some form or another. I am afraid that I see a degree of complacency in society. It is not just Tower Hamlets, which the noble Baroness, Lady Hayman, referred to first, and which we will get to many times over the next few days in Committee; we should not kid ourselves that Tower Hamlets is the only place where there has been maladministration.

I am going to enjoy myself at this moment by just reminding the House—some Members may be aware of this, but I fear many are not—that the largest case of personation ever identified and undertaken in this country was by the Liberal Democrats in Hackney in 1998: one hall of residence, which had a capacity of 32 people, managed to have 80 people registered on the electoral roll, courtesy of a Liberal Democrat candidate. I did enjoy that bit.

As I said, the debate will revolve around the question of fraud, and the means of fraud. Quite a few years ago I was asked by Simon Walters, who I think was then deputy editor of the *Daily Mail*, whether I could identify how you would fraudulently deliver an election result. I asked him how long he had got—because there are so many ways in which you can deliver a fraudulent result.

As the noble Lord, Lord Pickles, identified, it is not purely parliamentary results that matter, but local authorities as well. We have seen, in recent years, substantial fraud cases in Tower Hamlets, Birmingham, Woking and High Wycombe, and we are aware of other cases around the country. I discussed with the noble Lord, Lord Wallace, the problems in some of his parts of the country, in west Yorkshire. We have to recognise that there are problems, and we should do something about them before we face a greater problem.

In conclusion, I will identify a particular issue which I will continue to pursue separately from the Bill and of which the noble Lord, Lord Rennard, and the noble Baronesses, Lady Hayter and Lady Hayman, are aware: namely, the two-signature issue for local government elections, which—I say to the Minister—I hope we can resolve for the elections this year outwith this piece of legislation. I will continue to pursue that until the closing date for achieving that end has passed.

5.33 pm

Lord Grocott (Lab): My Lords, I happily add my thanks to the noble Lord, Lord Moore, for a splendid opening speech. I thank him most of all for making us laugh—I think that might be the last laugh we get with this Bill.

I had hoped that any attempt by this Government to make important changes to our constitution would be conducted with extreme caution and with humility. I say this because, during this parliamentary Session, under this Conservative Government, we have spent a good deal of time repairing the constitutional damage inflicted by the Conservative Government that was in power 10 years ago.

I refer, first, to the cynical moves in the Parliamentary Voting System and Constituencies Act 2011, when at a stroke the Government planned to reduce the number of MPs from 650 to 60.

Noble Lords: 600.

Lord Grocott (Lab): Sorry, to 600. I am sure they would have done the former if they had had the chance. Needless to say, the calculations were that the changes would damage the Labour Party more than the Conservatives. Then, as we know, at the last general election, the Conservatives gained a number of so-called "red wall" seats, and lo and behold the calculations changed: the proposed reduction to 600 would have damaged the Conservatives, and the Government had a Damascus road conversion back to 650 seats.

Then we had the friendless Fixed-term Parliaments Act 2011, the malign effects of which included the shambles at the end of the 2017 Parliament. Thankfully, we are well on the way to getting rid of that Act with the Third Reading of the dissolution Bill tomorrow.

I draw two lessons from this little history lesson. First, major constitutional Bills really must have pre-legislative scrutiny; and, secondly, beware a Government bearing constitutional gifts. The chances are that, whatever the wrapping, the contents will include—somewhere—an electoral bonus for the Government.

So far as the current Bill is concerned, if we had had proper scrutiny, we would have had witnesses being examined such as—as has been mentioned—the Joseph Rowntree Foundation. Its extensive research with a representative panel of 6,000 people concluded that the voter ID requirements of the Bill risked disenfranchising around 1.7 million low-income voters.

We know that many people do not have any form of photo identification—a figure of 3.5 million has been estimated. What is known about the demography of this group: their gender, age, social class, income and housing? Given the Government's form on the politics of constitutional change, what do we know about the likely voting intentions of this section of the population? I say to the Minister: please do not tell me that this has not been considered—that really would be a novelty.

Another hugely controversial part of the Bill, which was dealt with brilliantly by the noble and learned Lord, Lord Judge, concerns the independence of the Electoral Commission. We really should not need to be debating whether or not a body with responsibility for overseeing elections and their integrity is to have its strategy and policy document written by the Government—or, to put it more precisely, written by the winning party at the most recent general election. Elections, by definition, are competitive. To allow the winning party to give instructions to the Electoral Commission is comparable to a game between Arsenal and Manchester United in which, prior to kick-off, the Arsenal manager gives instructions to the referee—although some people may feel that happens already.

That brings me to the evidence, or lack of it, for the change of voting rights for people living overseas. The fundamental principle of the franchise in our country is that your entitlement to vote comes from your residence and registration on the electoral roll of a specific parliamentary constituency. We quite rightly make an exception to this for UK citizens who, for various reasons at various times in their lives, live or work abroad, usually with the intention of coming back to the UK, and many of whom will have kept a house to which they will return. The time limit for this is a sensible 15 years.

Now the Government intend to extend this to a vote for life. This surely raises important issues. First, there is the practical problem that the longer someone is away from the UK the harder it is to verify their former UK address. But is there not also an issue of fairness? People who have not lived here for decades and for whom the clear probability is that they will never return are to have the same right to vote in the constituency in which they last lived as the current residents. There may be a major local issue—a hospital closure, fracking, motorway construction, flooding—which is of crucial importance to people living there, who will have to live with the consequences. But someone who has not lived there for decades, and has no intention of doing so again, has the potential to determine the election's outcome. I do not think that enhances our democracy.

The noble Lord, Lord Rennard, asked, "Why don't they have their own constituency?" Well, the figure I have is that some 2 million people would be enfranchised by this. I am not sure how many parliamentary constituencies that would require.

So let us get some facts from the Minister. Just how many more people are estimated to be eligible to vote under the "votes for life" provision? I have seen, as I said, estimates of up to 2.5 million. So I ask the Minister: how are we going to verify all these overseas people and, when they are added to the electoral roll in individual constituencies, will their numbers be included in calculating the size of constituencies in future parliamentary boundary reviews?

I had better leave out the next bit of my speech as I am out of time. I was just warming up, really.

This Bill about elections and their integrity. No other subject could be more fundamental to our democracy. The Bill is based not on the judgment of neutral, objective observers but on the judgment of a political party that has won an election. That of course is the case with all legislation but, for constitutional Bills, the case for detailed scrutiny, consensus if possible, and as much objectivity as possible, is overwhelming. Sadly, with this Bill, the Government have failed to learn lessons from the serious mistakes they made in the past.

5.40 pm

Baroness Greengross (CB): My Lords, like others speaking today, I am concerned that the Bill has some serious flaws. In an unprecedented move two days ago, the Electoral Commissioners wrote to the Government making the following warning:

> "It is our firm and shared view that the introduction of a Strategy and Policy Statement—enabling the Government to guide the work of the Commission—is inconsistent with the role that an independent electoral commission plays in a healthy democracy. This independence is fundamental to maintaining confidence and legitimacy in our electoral system."

Free and fair elections that are above political independence, or even perceived political interference, are vital if we are to ensure that the public have confidence in our democracy and system of government.

I also have concerns about the requirement in the Bill for people voting in UK parliamentary elections and local elections in England to produce photo ID. Can the Minister advise the House what information the Government have regarding the number of eligible voters who do not have some form of photo ID? The most common forms of photo ID are passports and drivers' licences. The people most likely not to have either and who may not wish to pay for another form of photo ID are the younger or first-time voters and older people. We have seen from international examples, particularly certain states of the United States, that voter ID requirements have reduced turnout in poorer and often black communities. Such practices are unrecognisable to our British democratic system, and it should stay that way.

The Government will, I am sure, argue that this was a commitment in their 2019 election manifesto, so they have a mandate to introduce photo ID requirements. Although winning a majority of seats in the other place, the Conservative Party in fact received 43% of the vote; however, due to the first past the post electoral system, it received 56% of seats.

This brings me to my second point, which is on requiring local councils in England to use the first past the post electoral system. I declare my interest as a

[Baroness Greengross]
vice-president of the Local Government Association. I am concerned that the Government are using this legislation to impose the electoral system used to elect MPs to the Commons on councils. First past the post is a voting system that tends to favour the two main parties and makes it more difficult for small parties or independent candidates to get elected. It is arrogant to argue that this voting system is better than a proportional voting system used by some local councils in this country, as well as many leading democracies internationally, such as Germany or New Zealand.

Further, there is no evidence that the challenges currently faced in local government are best addressed by imposing an electoral system through the Bill. The Government should be working with local authorities to ensure that they have the resources and systems in place to deliver vital services to communities throughout the country. In terms of voting systems, we can learn from various international examples, including New Zealand, where local communities can decide by plebiscite which voting system they wish to use.

In its current form, the Bill potentially undermines the independence of the Electoral Commission, may disfranchise voters who do not have ID proof, and imposes a voting system on local government rather than allowing communities to decide which system they prefer.

5.44 pm

Lord Desai (Non-Afl): My Lords, I have a very different view of what the Government are proposing and the whole election business. I find the election process in this country severely out of date. It is like a penny farthing machine, if not something worse. Had the Labour Government been allowed to have identity cards as they proposed— Nick Clegg talked about privacy and some said it was too expensive—none of these problems would arise.

People say that that is against our tradition. In India, which had 900 million people on the electoral register last time round in 2019, everybody has an identity card. All 1,300 million people carry an identity card. I have seen them. Everybody can produce their identity at any time—ignorant people, illiterate people, tribals, women, blacks and whites. Again and again, people here make this drama about it being the poorest who are illiterate or unintelligent and cannot get a photo ID. Why are we so patronising about our own citizens?

My children and grandchildren laugh at the fact that we have to go to a booth and sign something there. They have a smartphone; they should be allowed to vote directly online on a phone. We used the smartphone during the pandemic for a number of things and relied on it. It was very useful. Which world do we live in so that, for elections, we have to go through a very old-fashioned system with people counting votes all night? In India, with 900 million people voting, once the ballot boxes are gathered it takes one and a half hours to declare the national result, because we have electronic machines to count the votes. You do not need people sitting there all night putting little pieces of paper by their side and throwing things away, and us then having to rely on the BBC exit poll to know what will happen over the next 36 hours.

Why do we tolerate this peculiar system? I know that we have a great love for treating politics as a medieval system; that is our pride. That is why our parliamentary Chambers have to be overcrowded; we cannot really have seats to ourselves or equipment on each chair so we can vote sitting on our seat. No, that is not in our tradition; it is not in our tradition to have people sitting comfortably in parliamentary seats. No, we are an old democracy, we are the best democracy; therefore, we must be made physically uncomfortable to be able to be in Parliament. Look at the House of Commons. It is so crowded. If every Member of the House of Lords turned up, half of us would not be able to sit. Why do we tolerate that, and why, each time anybody suggests a change, does everybody say, "Oh my God, we cannot have this change, because somebody somewhere will be deprived"?

The Government should have proposed an identity card scheme and implemented it quickly before the next election. We all get an electoral registration note every month or two that says, "Please certify that you are at this residence". I do not know why it has to be done that many times but, okay, I do it. Of course I have lost my vote by coming here, but I still dutifully fill out the form and send it back because that is my duty, but it should not be necessary.

If we had an identity card, it would have all the information required in one little thing. It should be on your smartphone. My smartphone knows more about me than I myself know. It tells me where I have been. We really ought to think about this whole process and much less patronisingly about those who are deprived. We should ask: what is the best, most efficient and fastest way to get people to vote, and the most comfortable way? They should not have to go to a polling booth; it is completely unnecessary, because we can create an identity—a number with a picture—which can be accurately determined to give that person a vote. We are discussing an antiquated thing and passionately want to keep it antiquated. I do not think I can make any difference to that logic, but perhaps in another 25 years somebody will do it.

5.50 pm

Baroness Gale (Lab): My Lords, the Government argue that this Bill will strengthen democracy, but I am not sure how that can be so. For example, in a democracy, how can a Government interfere with and undermine the independence of the Electoral Commission?

There is concern in Wales that the Bill's provisions regarding the accountability of the Electoral Commission, as currently drafted, are incompatible with the accountability arrangements established by the Senedd and Elections (Wales) Act 2020 between the Electoral Commission and the Presiding Officer's committee in the Senedd. Will the Minister agree to work with the Welsh Government to find a solution to this concern?

The Welsh Government do not support the introduction of voting ID, the placing of unnecessary constraints on postal and proxy voting, or the extension to the overseas franchise, and they will not use voter ID in the elections that they control. There is quite a contrast between what the UK Government believe about democracy, as contained in this Bill, and what the Welsh Government are doing by taking action to improve democracy in Wales.

Although agreement has been reached on the Bill between UK and Welsh Ministers, other than on intimidation and digital imprints measures, so there is no opposition in principle, the Welsh Government believe that they have the competence to legislate on these matters. On intimidation, for example, it is the Welsh Government's view that every legislature should have the freedom to determine its own disqualification regime for the elections for which it is responsible. The same principle applies to the digital imprint. Would the Minister be prepared to work with Welsh Ministers on the areas where there is no agreement at the moment? I think, from what he said in his opening remarks, he would be prepared to do that; he talked about bringing forward amendments.

Participating in democracy is strongly linked to improved outcomes. Supporting people to overcome the barriers they experience because of their socio-economic conditions is essential to achieving our overall aim of improving participation rates and experiences. To increase participation, the Welsh Government plan to hold pilot schemes with four local authorities for the local elections in May. These pilots will provide new flexibilities for the electorate in Wales and people will be encouraged to make use of them, especially those who might not have originally planned to vote.

The measures the Welsh Government are taking include having advance voting during the week leading to election day. A new polling station will be created in a school for registered students of that school only, and, in two local authority areas, council offices will be used as a polling station for all residents of the county on the weekend before polling day. I hope this will be a successful pilot and will lead to greater participation, in contrast to some of the measures in this Bill. Electors in Wales will have greater choice about when they will vote in local and Senedd elections, but they will face barriers and inconveniences when it comes to the general election. I hope that UK Ministers will have a good look at the results of the pilot scheme when they come out and see whether they can learn from them.

I have received a very good briefing from Age UK, as I am sure many other noble Lords have. Age UK does not welcome the Elections Bill's introduction of photo ID for in-person voting and has significant concerns regarding the impact this will have on older people. I quote its briefing:

"Older people are more likely to face hurdles when voting, including barriers to accessing transport and limited mobility which make getting to a polling station a lot harder … the proposed addition of compulsory photo ID will add to barriers to in person voting … If photo ID proposals are carried unamended … mitigating measures such as the provision of free photo ID to people who lack these documents should be made as accessible as possible. Additional provision of free photo ID for elections will be costly and complex for local Returning Officers to administer and must be supported by central guidance and funding … Increasing confidence in the integrity of the electoral system is important but with no evidence that personation fraud in the UK is widespread and evidence that in small pilots, over a hundred people were unable or unwilling to return to a polling station to present valid photo ID, it feels that the introduction of this security measure is disproportionate to the threat of personation fraud. Age UK believes the proposal represents a sledge hammer to crack a nut."

Like many organisations, Age UK opposes Clause 1 on voter identification. With so many organisations opposed to it, I hope the Minister will take note of these remarks. I look forward to his reply.

5.57 pm

Baroness Pinnock (LD): My Lords, I draw the House's attention to my relevant interests as an elected councillor, and as someone who has been at the heart of elections, local and national, on every occasion for the past 40 years.

This Bill is a crude attempt to curtail our democracy. One of the ways that this is being done is through the requirement to produce photo ID at polling stations. Yesterday in your Lordships' House, there were fervent arguments from the Conservative Benches that it was anti-democratic to require a security pass to vote in this House, yet this requirement is acceptable for ordinary folk wanting to cast their vote.

Our current elections process is far from perfect. There are significant problems with ensuring that everyone is registered to vote. In 2019, the Electoral Commission estimated that 17% of people, or one in six, are not on the register. For people from Asian and black heritage, that rises to one in four. In every general election I have had calls from people who have not been able to vote because they are not on the register for whatever reason.

One of the Bill's aims should be to commit to increasing voter registration by giving elections officers adequate resources to do so, and to assure, for example, those fleeing from domestic violence that they can opt out of the public register. Where is the voter registration commitment in this Bill?

Of all the imperfections in our voting system, personation is not a significant one. Let us consider the practical implications of the voter ID proposal. Not everyone will have photo ID. Those who do not will not turn their mind to getting a so-called "free" card from their elections office in time. Some will forget to take it to vote, as the pilots demonstrated. Perhaps the Minister will explain how women who wear the burka are to vote when they will not be able to show their face if there are any men in the polling station. Are they to be disfranchised because of their faith?

Polling clerks will be turning voters away, when those voters will rightly feel that their inalienable right has been removed. Just at a time when we need a system that encourages more people to take part, it seems that the aim of this tawdry Bill is to make it more difficult to vote.

The Minister will no doubt suggest that those who do not want photo ID can apply for a postal vote. That argument will indicate just how little the Government understand about how some voters, often but not only women, have their postal vote used by someone else.

On the change to first past the post for mayoral and police commissioner elections, the Minister said earlier that the Government were getting rid of the supplementary vote system because such systems are confusing. Yet only this last week, the Conservative Members of your Lordships' House used the supplementary vote system to elect a new Member to their ranks. Was it that confusing for Members of the Conservative Benches?

A noble Lord: Probably.

Baroness Pinnock (LD): Maybe that is what has induced this change: it was too confusing for elections to your Lordships' House.

This Bill is thoroughly anti-democratic. Only a Government determined to seek to control elections would propose that the independence of the Electoral Commission should end. In a most unusual step, the commission has written to the Minister as follows:

"It is our firm and shared view that the introduction of a Strategy and Policy Statement—enabling the Government to guide the work of the Commission—is inconsistent with the role that an independent electoral commission plays in a healthy democracy. This independence is fundamental to maintaining confidence and legitimacy in our electoral system … If made law, these provisions will enable a government in the future to influence the Commission's operational functions and decision-making. This includes its oversight and enforcement of the political finance regime, but also the advice and guidance it provides to electoral administrators, parties and campaigners, and its work on voter registration."

This is a thoroughly anti-democratic Bill, and in some of its provisions dangerously so. It discredits our reputation as a torch bearer of democracy and therefore cannot be supported by those of us who love our democracy.

6.04 pm

Lord Janvrin (CB): My Lords, I add my voice to those who have congratulated my good friend, the noble Lord, Lord Moore of Etchingham, on his magisterial maiden speech, which might be a wonderful foretaste of contributions to come.

I was a member of the committee on the Electoral Registration and Administration Act 2013, which reported in 2020. I shall follow what the noble Baroness, Lady Pinnock, touched on but want first to add my voice to those expressing grave concern about the independence of the Electoral Commission and the Government's strategy and policy statement. Others have touched on this much more eloquently than I can.

I too read with interest the report of the Public Administration and Constitutional Affairs Committee and its savage criticism of this Bill. I also read with interest the Government's response to PACAC, in which they stated that the provisions in relation to the strategy and policy statement

"do not give the Government the power to direct the Commission's decision-making",

yet, under the Bill, the commission must "have regard to" the statement. These two statements fail the common-sense test.

Following on from what the noble Baroness, Lady Pinnock, touched on, I shall certainly listen with interest to the arguments for and against voter ID and on whether it is the answer to some of the wider worries about electoral fraud. Yet, at the same time, the Bill has nothing to say about what seems to be a far larger problem relating to the integrity of our electoral process; namely, that many millions of eligible voters are missing from the electoral registers. Other countries with similar registration requirements, such as Canada, seem to be much more successful in achieving higher levels of both completeness and accuracy in their electoral registers.

There are many ideas on how this problem might be addressed—for example, automatic or assisted registration—and we will hear more about this on Friday when the House at long last debates the 2020 Lords committee report on electoral registration. I wonder whether the Minister might give us a foretaste of his arguments in that debate to answer today the argument that the millions missing from our electoral registers are a far greater threat to the wider integrity of our elections than personation.

I too ask why such a fundamentally important Bill affecting the very foundations of our democratic system is being taken through Parliament without the kind of careful consultation and consensus-building that it deserves. There was no White Paper; there was no pre-legislative scrutiny to build understanding and cross-party support; there is no statutory commitment to post-legislative scrutiny, yet significant government amendments have been introduced since the Bill was given a Second Reading in the other place.

This is an important Bill introduced at a time when the integrity of our politics and the observance of the conventions which regulate our constitution are under intense scrutiny. The Minister knows this better than anyone. I look forward to his reply.

6.09 pm

Baroness Fox of Buckley (Non-Afl): I warmly welcome the noble Lord, Lord Moore of Etchingham. His witty, erudite and insightful speech shows what an asset he will be here.

The Elections Bill is designed to strengthen the integrity of the electoral process and therefore strengthen UK democracy per se. That is a worthy aim that we should all embrace, but I worry that the Bill takes an overly technocratic and legalistic approach that evades deeper problems and cultural trends that undermine democratic norms today, from assaults on free speech to the fashion for casting aspersions on the capacity and motives of voters. When I am lobbied by opponents of the Bill, who say that the legislation "would not look out of place in Hungary, Russia or China", I fear that hyperbole and partisan paranoia might distort the important public debates we need to have about democratic elections that this Bill should positively kick-start.

Like other noble Lords I have a lot of specific areas I want to ask questions about in Committee. Will restrictions on third party campaigning lead to disengagement of civil society organisations from political activism? Why on earth did the Government table changing the voting system so late in the day? For now, I have some comments on the alleged voter fraud issue. I welcome the Bill tackling the problems of postal voting. The noble Lord, Lord Pickles, described concerns over harvesting votes, which I think many of us have shared for some time. Of course postal voting is necessary, but it should be a narrow, particular form of voting and not a go-to device so open to abuse. Tightening this would help and would shore up the legitimacy of elections, I have no doubt.

The same motivation is used by the Government to justify the controversial voter ID scheme. However, I am less convinced that this illiberal show-us-your-papers

measure is either proportionate or necessary when the data shows such minuscule examples of voter fraud, as we have heard. I do not go along with the overblown conspiracy theories that see voter ID as a dastardly Tory plot of "deliberate voter suppression", as one *Guardian* editorial called it, or an evil attempt to rig the system to disempower the poorest and most marginalised. No, I think that kind of discussion is unhelpful. My objections are rather those raised by the noble Lord, Lord Blunkett, about unintended consequences. Rather than reassuring voters that elections are not being corrupted by fraud, voter ID gives the impression that vote rigging is such a wide-scale problem that we need to change the law. Surely this puts an unnecessary question mark over election results and inadvertently sows suspicion among the public of their fellow voters.

Perhaps one underlying reason for all this focus on fraud is a more worrying problem beyond technical solutions: namely, the increasing disillusion with the democratic decision-making process, as expressed by a greater willingness to refuse to accept the outcome of legitimate votes. We have seen the emergence of the withdrawal of loser's consent from recent election results. In America, Donald Trump's "Stop the Steal" assault on the legitimacy of Joe Biden's election as President is a case in point. Sadly, the precedent for this was set closer to home, in the attempts to frustrate and suppress the democratic result of the 2016 referendum, often led by powerful voices in the establishment, with celebrity QCs turning to the law courts, the People's Vote campaign, and the likes of John Major—who has been cited by everybody here—and Lib Dem Lords, in fact, calling for a second referendum that demanded going back to the polls until voters gave the correct answer.

While many who oppose voter ID worry about disenfranchising electors now, for me the deeper problem is how widespread it has become to tell millions of voters, many who voted for the first time, that that once-in-a-generation vote should not have counted, with attempts to de-legitimise and tear up their vote by maligning 17.4 million citizens for being duped and not being educated enough to know what they were voting for. So, if the aim of Part 1 of the Bill is to bolster trust in elections, I suggest that far more effective than voter ID would be a robust campaign to restore the value of loser's consent and to ensure that democratic outcomes are respected, however unpalatable those in power find voters' choices.

There has also been a lot of disquiet expressed today about proposals to hold the Electoral Commission to account, critiqued as dangerous government interference in the Electoral Commission's independence. I want to ask how independent the Electoral Commission really is. The commission outed itself as breaking its own impartiality code when the UK had the largest vote in its history. Its chair and commissioners expressed their regret that the electorate voted to leave the EU—in other words, that they voted the wrong way.

These remain sentiments were not just confined to their opinions but were wielded as power, with so much systematic investigation, prosecution, threats of fines and ultimately harassment of leave campaign groups and activists that the present chair of the Electoral Commission, John Pullinger, had to issue a public apology to the likes of Darren Grimes and so on. While leavers have been cleared, there are still those who cite the Electoral Commission investigations as an official stamp of approval to repeat misinformation about the legitimacy of Brexit.

I think it is time we questioned whether democracy benefits at all from a quango set up to adjudicate on and stand above democracy itself. I remind noble Lords that there is already a powerful and fully independent body that can hold politicians and political parties to account. It is called the electorate. I appreciate that my power-to-the-people stance will be dismissed sneerily as populism, but I am rather proud of trusting the people myself.

6.15 pm

Lord Willetts (Con): My Lords, I join in the many congratulations to the noble Lord, Lord Moore, on his excellent maiden speech and give him a warm welcome to this House—and perhaps share with him a reflection from when I arrived in this House from the other place six years ago. One of things that first struck me, having been an MP, was that, unlike the other place, we did not have—if I may say so, with enormous respect—a Speaker who had the powers that the Speaker has in the other place. This Chamber functions rather differently. It functions on the principle that we agree on how we will disagree.

That principle, embodied in the way in which we function, is very relevant to the debate on this legislation, because it is part of a sustained constitutional settlement that a nation agrees on how we will disagree. That is why my first request to the Minister, who I know reflects on these issues, is that I hope that spirit can somehow infuse our debates and consideration of amendments to this legislation in the days and weeks ahead.

I would like to make two particular points. First, on the issue of voter ID, I understand that the case for the measure appears to be the precautionary principle, rather than evidence that there is widespread abuse at the moment. I am concerned that there is a risk that hundreds of thousands, if not millions, of voters who do not have a photo ID and do not seek the extra document that the Government are proposing may find that they are unable to vote. So I hope that the Minister will consider adding to the list of acceptable robust documentation, as a minimum measure to reduce the risk of substantial numbers of people being deterred from voting by this provision.

Perhaps I might comment on a second issue: voter registration. I very much agree with the points that the noble Lord, Lord Janvrin, has just made. The current system is crying out for reform. It needs of course to be robust and it needs to be modernised—and here I am particularly concerned by an issue which I know the Minister himself has focused on, because he chaired an excellent committee of this House on the very issue: young people. One of the arguments used when one talks about the challenges facing young people is that if young people were really bothered, instead of being so apathetic, they should go out and vote, and if only they voted at the same rate as everyone else, politicians would pay more attention.

[LORD WILLETTS]

We did some research at the Resolution Foundation on why young people had a lower propensity to vote. The biggest single factor by far was that more and more of them are in private rented accommodation and it is very hard to get on the register if you are moving around in private rented accommodation. They are not apathetic. They are finding it hard to get on the register, and it would be wonderful if, as part of this legislation, there were bold moves to reform voter registration so that, while protecting legitimacy and rigour, we also ensure that as many people as possible who have a legal right to vote are on the register.

If I may say to the Minister, who has a deep understanding of Conservative history and tradition, as does the noble Lord, Lord Moore, he will be familiar with Disraeli's bold move in bringing in the 1867 Act —the biggest single extension of the franchise since the Great Reform Act 1832—and with the Conservative Party's part in the steady process of extending the franchise over a century. There were Conservatives who thought that Disraeli's move was electorally suicidal and that the Conservative Party should be trying to restrict the franchise rather than broaden it. But Disraeli discerned the angels in marble: the potential voters out there who could be attracted to the Conservative cause. Engels, observing the subsequent election from Manchester, wrote to Marx:

"It cannot be denied that the increase of working-class voters has brought the Tories more than their simple percentage increase".

He was very surprised at what happened and went on to say:

"Once again, the proletariat has discredited itself terribly".

I very much hope that as the Minister and the Government approach the fraught issue of this legislation, they approach it in the spirit of Disraeli.

6.21 pm

Lord Stunell (LD): My Lords, it is a great pleasure to follow the noble Lord, Lord Willetts, and I very much endorse his remarks. I extend my congratulations to the noble Lord, Lord Moore, on his very witty and thoughtful speech.

This is a pivotal debate on a Bill where there is much at stake. A number of speakers have talked about ways in which the playing field may be tilted one way or another, but I want to concentrate on what is happening to the referee—the Electoral Commission. Are the Government going to press forward with measures which will throw away the UK's reputation as a staunch upholder of sound democratic best practice and move another step towards undermining public trust in the integrity of our electoral system, or will they instead take a deep breath and pause to rebuild a consensus for legitimate reform to reinvigorate our democracy? The noble and learned Lord, Lord Judge, made the case for this with tremendous eloquence and power at the start of our debate.

I am a member of the Committee on Standards in Public Life—CSPL—and serve as one of the three political members of that committee, alongside a majority of independent members under the chairmanship of the noble Lord, Lord Evans of Weardale. Much of what I intend to say is drawn from my experience on that Committee. It was the body that in 2000 first recommended the creation of a fully independent election regulator, which lead directly to the formation of the Electoral Commission. The committee has asserted ever since that a fundamental characteristic of the commission was and had to be its independence from political interference, let alone its domination or redirection by one particular political party. The committee expressed that in our report *Regulating Election Finance* last July, which said that

"it is imperative that there exists a strong, independent electoral regulator. For the electoral system to be fair and to be seen to be fair, and to command the confidence of political parties and the public, it must be overseen by an independent regulator, protected from political pressures and separate from the government. Such a regulator must demonstrate its impartiality and effectiveness at all times".

Far from trimming down the Electoral Commission's independence and remit, our report also recommended,

"a focus on increasing the effectiveness of the system for securing compliance with election finance law,"

It included recommendations among others to:

"Give the Electoral Commission additional powers … to impose more proportionate and meaningful sanctions"

and to—

"Transfer responsibility from the courts to the Electoral Commission for granting permission to parties, non-party campaigners and referendum campaigners to pay late invoices or bills from suppliers."

Those and other measures which I have not quoted are proposed by the committee to enhance the working of the Electoral Commission as a strong independent regulator, as part of a package of robust measures to strengthen our democracy.

In more normal times, the Government of the day, on receipt of such recommendations from the CSPL, would seek to find as quickly as they could a legislative slot to implement them. That is what has always happened before, when the CSPL has made recommendations about the Electoral Commission. Instead, we have this Bill, which undermines the commission's central function and leaves it beholden to the best interests of the party in power. The noble and learned Lord, Lord Judge, made that point with greater eloquence than me. We might expect to see that kind of thing to be reported from Belarus perhaps, or from Russia certainly, but surely not from Britain. This is not a minority view. The Conservative-led Public Administration and Constitutional Affairs Committee in the other place said bluntly:

"We recommend that Clauses 13 to 15 of the Bill are removed".

Those, of course, are the key clauses that would strike the fatal blow to the Electoral Commission's independence.

Of course, the Government will say that they are a benign and well-meaning Administration, and any inference otherwise is an outrageous and partisan slur. However, we were only one general election away from having a radical left-led Government in Britain that the Minister would be all too ready to demonise and attribute the most ill-founded and evil motives to. Is the Minister confident that these powers, if incorporated as set out in the Bill now, would be good ones to have handed over to them? That, surely, is the test. I want to hear from him when he winds up that he clearly does agree that those powers should be in the Bill and that

in future a left-led Government should be free to exercise the options that he says he is so self-controlled that he would never abuse.

The Bill is a depth charge placed under the Electoral Commission that threatens not just the commission but public confidence and trust in the whole functioning of the regulatory oversight of our democratic system. It is not simply a bad legislative package; it has actively displaced sensible proposals for reform, which are queuing up for implementation. The Government all the time are protesting that they have not the time to do the job properly. My noble friends and I will wish to return to many of these matters at subsequent stages of the Bill.

6.28 pm

Lord Kerr of Kinlochard (CB): My Lords, I rise with some diffidence, because almost everybody else in the House has much greater personal experience of electoral law than I have. One of us, so we have learned today, has had his visit to the polling station followed by a visit from the constabulary. I join those who congratulate the noble Lord, Lord Moore, on his remarkable maiden speech.

I think my credential to speak is that I lived abroad for a while and have a basis for comparison of our system with those of other countries. My impression is that ours is relatively clean, reasonably efficient, well understood and rather well liked—so what is the problem? My first question about the Bill is why, and what is the disease that it is trying to cure? As the noble Lord, Lord Stunell, has just said, why has it been given priority over long-delayed measures responding to very real demands, such as the reform of social care, for example, or more pertinently, for real action against foreign interference and foreign finance in our elections? I would like to find a respectable rationale for the Bill, but I have not heard it yet.

My concerns are particularly about four provisions: voter ID, back to first past the post, denying the local election vote to EU citizens newly resident here, and Clause 13, Schedule 8 and the attack on the independence of the Electoral Commission. In all four, my question is why?

On voter ID, as the Public Administration and Constitutional Affairs Committee in the other place put it, the Government's answer

"simply is not good enough".

The experts tell us that personation is very rare. My noble friend Lord Janvrin reminds us that the missing millions is a far greater problem. We know that disadvantaged young people who are on the register, particularly those in minority communities, tend not to have passports or driving licences and, frankly, I do not see them queueing up in town halls to get specific electoral identity cards. There can be very little doubt that the Bill would further reduce participation, not because fraud has been widespread but because we would make voting harder. The conspiracy theorists say that that is the point and that some people have been looking at what is going on in the American Deep South and are taking a leaf from the Republicans' voter suppression playbook. I do not want to believe that. I tend not to believe in conspiracy theories, but I have yet to hear a good reason why we should act in a way that is inconsistent with wider public policy on social inclusion.

As for first past the post for mayors and police commissioners, in one sense, it is no big deal. I am told that only 17 of the 217 such elections which have taken place using the SV system would have produced a different result under first past the post. Yet something quite important would be lost if we go backwards here. Fewer people in the community would see the winner as someone they had chosen. There would be an enhanced perception that party affiliation, rather than personal quality, mattered most. So why do it? The experts tell us that SV is easily understood. If it ain't broke, why fix it? Unless of course you really want mayors to be more subservient to national political leadership, but do we not believe in more devolution?

Then there is disfranchising the EU citizens lawfully resident here with leave to remain, just because they arrived after Brexit. I have to say that this looks a little like Brexiteer spite. Surely residence, not nationality, is the right test for the local election franchise. If these people pay their council tax, then is it not a case of no taxation without representation? It is like that in Scotland, so why not in England?

Finally, much the most significant of my four points is the attack on the Electoral Commission's independence. Having lived in America, I am convinced that what America badly needs is an impartial boundary commission to stop gerrymandering and an impartial electoral commission to see fair play in campaigns. So I was rather horrified two years ago when the then Chairman of the Conservative Party called for the abolition of the Electoral Commission—at least the Bill does not do that. However, one cannot say that wiser counsel has prevailed, because what Clause 14 of the Bill does is plain wrong in principle. I do not need to labour the point, because the noble and learned Lord, Lord Judge, put it far better than I could, but supposing we were to give the Government the benefit of the doubt and assume that, in practice, they would never use this new directing power to guide the commission, what about future Governments? Why leave this loaded gun on the table? This is wrong in principle and dangerous in practice.

I look forward to our debates in Committee. I hope the Government will listen and allay my fears. If they do not, I am sure we shall have to truncate their Bill.

6.34 pm

The Earl of Leicester (Con): My Lords, what a treat it was to listen to the wonderful maiden speech from the noble Lord, Lord Moore of Etchingham. Let us hope for many more in this Chamber.

I hope noble Lords will forgive me if I speak to just one aspect of the Bill: photo identification. The Elections Bill will implement photo identification in polling stations in UK parliamentary elections in Great Britain and local elections in England. Councils will offer a free voter card if an elector wants one. Some form of photo ID is needed to deter and prevent personation fraud. At present, it is harder to take out a library book or collect a parcel from a post office than it is to vote in someone else's name.

[The Earl of Leicester]

In 2003, the last Labour Government introduced photo identification at polling stations in Northern Ireland. It has helped prevent election fraud and has not harmed voter participation. Labour Government Ministers said then that:

"Personation at the polling station will be made much more difficult by the requirement for all voters to provide a specified form of photographic identification … The measures will tackle electoral abuse effectively without disadvantaging honest voters … to ensure that no one is disfranchised because of them."—[*Official Report*, Commons, 10/7/01; col. 739.]

They said they would not be introducing the measure if they believed that thousands of voters would not be able to vote because it.

If Labour now thinks identification to vote is so wrong, why is it not campaigning to repeal its own laws? Should electoral fraud be tolerated in Great Britain but not in Northern Ireland? Does Labour believe that most European countries which require photo ID engage in so-called voter suppression? Many constituency Labour parties currently require two types of voter identification to vote in Labour Party candidate selections—members are told to bring photo ID. Shadow Minister Cat Smith has attacked voter ID, saying we should consider

"how difficult it is for so many people in this country to have access to ID, because it is expensive—£80-odd for a passport and £43 for a driving licence."—[*Official Report*, Commons, 7/9/21; col. 210.]

But photo ID in either of those two forms was required to attend the 2019 and 2021 Labour Party conferences. This is political opportunism by the Labour Party.

Labour has claimed that the rollout of individual electoral registration in Great Britain, as used in Northern Ireland, would lead to mass disfranchisement, yet the electoral register in the 2019 general election was at its highest ever level. Its shrill claims on voter identification are similarly bogus and are also shown to be false by the extensive Northern Ireland experience and the 2018 and 2019 pilots held in some areas of England.

There have been no reported cases of polling station personation in Northern Ireland since the law changed in 2003. Indeed, the Electoral Commission observed in 2015 that

"there have been no reported cases of personation. Voters' confidence that elections are well-run in Northern Ireland is consistently higher than in Great Britain, and there are virtually no allegations of electoral fraud at polling stations".

Furthermore, in its 2021 public opinion tracker, the Electoral Commission did not record a single Northern Irish respondent reporting

"I don't have any ID / I wouldn't be able to vote".

International election observers have repeatedly called for the introduction of identification in polling stations in Great Britain, saying that its absence is a security risk. The Organization for Security and Co-operation in Europe, the OSCE, has said that

"serious consideration should be given to introducing a more robust mechanism for identification of voters."

Furthermore, our own Electoral Commission has called for the introduction of identification in Great Britain for many years, at least since 2014.

With regard to some noble Lords on the Opposition Benches stating that there is very little voter personation in our elections and that there has been only one successful prosecution, by definition personation is a crime of deception. A low number of reported cases equally suggests that such deception may not be detected. Personation is very difficult to prove and prosecute. Data is limited by the nature of the crime.

Finally, on the possibility that photo identification might deter hesitant minority groups from voting, I find this view somewhat patronising. Electoral fraud undermines the fundamental right to vote in free and fair elections. It deprives voters of their voice and their ability to have their say. Evaluations of the 2019 election pilots found that voter identification increased confidence among ethnic minorities that elections were free from fraud and abuse to 97%. Confidence also increased among younger voters. The Electoral Commission's research has warned that residents are at greater risk of electoral fraud in ethnically diverse areas. I commend and support the Bill.

6.40 pm

Baroness Hayter of Kentish Town (Lab): It is nice, while welcoming that I follow the noble Earl, Lord Leicester, to disagree with everything he has said, including that he hopes the noble Lord, Lord Moore, who he so enjoyed, will speak more. As a historian, although I have to say not of his eminence, I am slightly worried that, if the noble Lord speaks many more times, we will not get more books out of him. I ask that he keeps a balance, because we like his writings as well.

Much has been made of what I think are the completely unnecessary and indeed harmful mandatory requirements for ID at polling stations. Worse, as we have heard, is that this stands alongside the ability of expats, perhaps out of this country for 20 or 30 years, to vote by post with absolutely no check that they are alive or that they ever lived, worked or went to school here, or anything else. We will not even check that they are not in prison at the time; our own citizens who live here and are in prison are not given the vote, but these people will be. We are talking of people who do not live here or pay their taxes here—this really is representation without taxation. They do not depend on our schools, our health services, our roads, our police, our universities or anything that our taxes and our Government are responsible for but over which they would now be given a vote—even those, as we have heard, who may have no intention of returning here at any time.

It is true that other nations sometimes permit their nationals to vote, but they usually get them to do so at the embassy here; we have often seen them at election time turning up to vote. In fact, to retain your vote in America, you also have to be liable for American tax. So what we are doing is quite exceptional. We are offering those people a vote with no checks, and not even requiring them to do jury service, at a time when 16 and 17 year-olds, whose whole future is in the hands of the Government, still get no vote in elections.

Worse still, these expats will become permitted donors—that is, they can give virtually unlimited amounts of money, with no checks on its provenance, to UK

political parties, as the noble Lord, Lord Rennard, and my noble friend Lord Grocott have spoken about. I wonder which political party might be the beneficiary of some fairly opaque offshore money from long-exiled Britons—answers on a postcard, please. We should be reducing, not increasing, overseas donations to our political parties. These sorts of donations, even if declared, will tell us nothing about the people involved, who will have contributed nothing to our civic political life or paid any taxes if they are such long-term non-residents.

So why does the Tory party want to add them to the electoral roll? I will wager that it is not for their votes but for their donations. Indeed, despite my putting down a number of Questions, the Government have been unable to tell me how many of those expats currently able to vote have done so—and if the Government do not know, they probably do not care. It is getting some long-term non-residents into the permitted-donor category that is behind this move. The noble Lord, Lord True, is an honourable man, so if I am wrong and this really is in order to allow our wonderful Labour member in Rome, Harry Shindler—who the Government normally cite every time we talk about this—to vote, the Government will accept the amendment to restrict donations to people who are both on the electoral roll and resident in this country. If the Government refuse to accept the amendment, we will know it is all about enabling wealthy non-residents to fund a British political party. Indeed, at Prime Minister's Questions today, the Prime Minister reasserted that money would be taken only from those on the electoral register—which is why he is extending enormously the number of expats who can now go on to the register.

We have been reading a lot about how the Conservatives like taking rather large bundles of dosh from money that has originated abroad. The wife of a former Putin finance Minister apparently paid £160,000 for a game of tennis with Boris Johnson. I gather that she is the most generous ever female donor to a political party—and I thought women had good political sense. We know there are many such examples of money from somewhat dubious sources finding its way into, I am afraid, the Conservatives' coffers. While the Bill is about UK nationals, who is to say that those living abroad may not assist in facilitating such generosity, given the absolute lack of checks? It will be impossible to be sure that they ever lived here, because we do not have records going back over 30 years and no system is being set up to undertake such due diligence. So we risk disenfranchising some people with ID checks while giving the vote to people who do not live here, pay taxes here or have any ambition to return here.

This Bill is not good for democracy. I do not think it is good for the Conservative Party either, because if it gets more donations this way, it will become public, and that will not be in its interests.

6.47 pm

Baroness Humphreys (LD): My Lords, I add my congratulations to the noble Lord, Lord Moore of Etchingham, and welcome him to his place.

I shall speak on two main issues in this debate on the Elections Bill: voter ID, which many noble Lords have already spoken about, and the amendment of the role of the Speaker's Committee on the Electoral Commission. I shall examine the impact that the Bill will have on the devolved Administrations in those areas.

The UK Government's commitment to, and insistence on, the production of photographic identification to vote, to avoid the perceived threat of personation fraud, is surely a case of a solution desperately searching for a problem. There is no evidence of widespread personation at elections. Only 33 cases were identified in the 2019 elections out of the 58 million votes cast in all the elections that year, and in total there was only one conviction for personation and one caution. This legislation is taking the proverbial sledgehammer to crack the tiniest of peanuts. It is difficult to understand the UK Government's motivation here, and difficult to deny the accusation that they are deliberately attempting to disenfranchise those they see as not particularly supportive of them at election time.

The Electoral Reform Society Cymru paints a vivid picture of poll clerks at future elections becoming

"bouncers at the ballot box, turning away potentially thousands of would-be voters each election."

As the Welsh Government point out in their legislative consent memorandum, the Bill's provisions would apply only to reserved elections in Wales. I am pleased that the Welsh Government do not support the Bill's proposals to introduce voter ID, while recognising that the Bill does not seek to apply these proposals to devolved elections in Wales. For me, however, as a Welsh voter, it is helpful to have clarity from the Welsh Government on their thinking on these issues, and to know that in Senedd elections, Welsh referenda and local government elections, voters in Wales will continue not to need photographic ID.

There are, however, interesting times ahead in Wales if this Parliament accepts the UK Government's proposals. Devolved elections and reserved elections happening on the same day will lead to confusion for voters, as voter ID will not be needed for one set of elections but will be needed for the other. I am sure that our election returning officers will ensure that chaos does not reign.

The proposals to amend the role of the Speaker's Committee on the Electoral Commission are extremely worrying, and the introduction of a strategy and policy statement is criticised as being an attempt to impinge on the commission's independence. Many of your Lordships have already commented eloquently on these changes, and I will not delay proceedings by repeating what has been said. I do, however, want to add comments on the impact of this in Wales. As the noble Baroness, Lady Gale, mentioned, since the Senedd and Elections (Wales) Act 2020, the Electoral Commission has been accountable to the Senedd by way of the Llywydd's Committee—Wales's equivalent of the Speaker's Committee—in relation to devolved Welsh elections and referenda. The Act also provides for the Electoral Commission to be directly funded from the Welsh Consolidated Fund.

This Bill, however, appears to disregard the role and the status of the Llywydd's Committee and gives limited consultation rights on the draft statement to Welsh Ministers in relation to the commission's devolved Welsh functions. Being overlooked, or perhaps

[Baroness Humphreys]
disregarded, in this way is disrespectful to the Llywydd's Committee and diminishes its status. I believe that the Llywydd's Committee has been in correspondence with the UK Government, stating that its view is that the Bill

"should be amended to require that the Llywydd's Committee be consulted if the UK Government intends to issue Strategy and Policy Statements which relate to the exercise of the Electoral Commission's devolved Welsh functions."

This, of course, would provide parity with the UK Government's required consultation and engagement with the Speaker's Committee. Could the Minister update us on any discussions held between the two Governments about recognising the status of the Llywydd's Committee?

It is the Welsh Government's view that consent should not be provided to the Bill. As expressed in their memorandum, they wish to bring forward their own legislation for scrutiny after a period of consultation with stakeholders—a process that this UK Government should have followed in the production of the Bill.

6.53 pm

Lord Kerslake (CB): My Lords, I should first declare my interest as a vice-president of the Local Government Association. My other interests, including my advisory work with a number of metro mayors, are listed in the register. I too enjoyed the speech by the noble Lord, Lord Moore, and welcome him to the House. It reminded me that he once wrote a piece taking me to task for doing a speech about the moral superiority of the Civil Service. It was a powerful piece with only one flaw: I did not make the speech. Somebody else made the speech, but I did enjoy the attention.

Our democracy is precious to our way of life in this country, but it is also fragile. We need only to look at Russia, Turkey and Hungary to see what happens when the democratic process is suborned. We should never be complacent about the risks. It follows from this that any changes to the laws governing our electoral process must be made with extreme care, be guided by clear evidence, enjoy cross-party consensus and be subject to extensive pre-legislative scrutiny and consultation. Had that path been followed by the Government in this instance, I think all sides of the House would have welcomed such a Bill.

There clearly are ways we can improve the security and transparency of our elections in the UK, and we can all agree on those. Sadly, and although there are some positive things in the Bill, this consensual and open approach is not the approach the Government have followed. The Bill is being pushed forward with unseemly haste and with some provisions both deeply flawed and deeply partisan. As such, all Members in this House should be concerned about a Bill that seriously risks weakening—not strengthening—our democracy.

There is not time to do justice to all my concerns, and other noble Lords have spoken on many of them, so I will highlight just four areas of particular concern. First is one that has been commonly mentioned: the undermining of the independence of the Electoral Commission by giving the Secretary of State powers to direct its work through a strategy and policy statement. If we had any doubts about the issues involved here, they should have been removed by reading the Electoral Commission's extraordinary letter, signed by all bar one of the commissioners, which said in clear terms that they were concerned about these provisions. Given that and the debate we have had today, the Minister should seriously acknowledge the issues and consider urgently rethinking this part of the Bill.

My second concern is the introduction of the requirement to have photo ID in order to vote, which the campaign organisation Liberty, as others have quoted, has accurately called

"a solution in search of a problem."

It is particularly frustrating given that we have many real problems that are not being sorted. The evidence for personation is tiny—I am a former returning officer—and far outweighed by the evidence that people will be prevented or inhibited from voting by the proposals put forward by the Government. Moreover, we know it will be younger and lower-income people who are most affected. I am very doubtful that we need this at all, but if it is going to go forward there must be much stronger mitigation measures in place, as others have said.

My third concern is the change to the rules on campaign expenditure, which could significantly curtail the campaigning ability of a number of organisations, including the trade unions. Let us be clear about it: these provisions are poorly thought through and laden with unintended consequences. They need to be either taken out or fundamentally revised.

Fourthly and finally is the change in the voting system for the election of mayors and police and crime commissioners from the current supplementary voting system to first past the post. As we have already heard, this was introduced late into the Bill in Committee, so the normal scrutiny was avoided. It has been argued that it is a fulfilment of the Conservative 2019 manifesto commitment. It is nothing of the sort. That manifesto said:

"We will continue to support the First Past the Post system."

"Continue" is the key word here—a clear reference to retaining the existing first past the post elections, not changing the existing elections run by a different system. It rides roughshod over the original consultation done at the time the London mayoral post was created, which showed a clear majority in favour of a different voting model from first past the post.

I have to say that, despite searching, I can find absolutely no evidence of public concerns about the current voting arrangements. It is, to coin the Minister's phrase, a tried-and-tested system that has run for 22 years in five elections in London. I am reluctantly forced to conclude that the only reason the change is being put forward is that the current party in power has not been very successful in elections under this system recently. That is not a good reason for changing the system. In short, I see no case for this provision being in the Bill and I think it should be removed.

To conclude, all the available evidence, including the report of PACAC, as we have heard, tells us one clear thing: that there are deep concerns and issues with the Bill that need a great deal more time and consideration than the five days currently being allocated

for Committee. Unless the Bill gets proper consideration by this House, I fear that we will be legislating in haste now and deeply regretting it later.

7 pm

Baroness Jones of Moulsecoomb (GP): My Lords, I too really enjoyed the speech of the noble Lord, Lord Moore, and I congratulate him on it. I welcomed him earlier when I was introduced to him in the Long Room, and I have to say that he seemed like a very nice man—for a *Telegraph* editor.

I do not doubt the Minister's integrity, but his opening speech was full of inaccuracies and presumptions. I will check *Hansard* and come back to him on all those, but he mentioned the precautionary principle, which is crucial. [*Interruption.*] He did not? Well, I will come back to him on anything he did say. This Bill could have been an opportunity to improve our democracy so that every person's vote counts. Instead, the Government are taking a backward step by forcing first past the post on more elections.

London has enjoyed a much more dynamic and engaging political landscape than the rest of England because the system has allowed people to vote for the party and the candidates they actually like, rather than feeling forced into voting for the lesser of two evils. Indeed, Boris Johnson was elected as Mayor using the supplementary vote system—I guess that is actually an argument against PR; I am sure many of us regret that. It is a great shame that the Government want to trample on this vibrant democracy by forcing the dominance of the two-party system. There is no justification for it and no suggestion that voters want their votes to be constrained in this way. We should be moving away from first past the post, not bringing it back.

Many noble Lords, including Ministers, have said to my noble friend and me that, while they disagree with us on almost everything, they are glad that we make the contributions we do to your Lordships' House. The Minister can just nod if he agrees with what I have just said. It could obviously be flattery, but there are many more Greens who could make a huge contribution to society through being elected, as well as independents and smaller parties. Many people who are really working hard at a local level can be shut out by these changes. Moreover, there are many people who ought to be elected, who would make incredible contributions to public life and represent substantial sections of the public, but who are shut out by first past the post. The Minister said that the justification for reinstating it is that voters find the alternatives too confusing. That, frankly, is very patronising. Rather than saying it is too confusing, why do the Government not improve civic and political education? I cannot see that the Government are making sense on this issue.

I am possibly the only person in your Lordships' House who has been elected under proportional representation and first past the post, and under the former I represented far more people than I could when elected as a councillor under the latter. So, I can see the value in proportional representation as something that enables more people to feel engaged with politics. The two Greens in your Lordships' House will oppose the rollback of democratic choice because we think every person's vote should count.

Another issue we must grapple with in the Bill is the corrupt funding of British politics. Inevitably, any system that allows the rich and powerful to make unlimited donations—noble Lords might say there is a cap on donations but actually, of course, people can make a lot of smaller donations—will result in undue political influence by those donors. We should be curtailing the influence of big donors on politics. More pressing, especially in light of the new Russian sanctions, are the loopholes that allow oligarchs and shady foreign donors to infiltrate British politics. One example that arose in the 2019 general election was the possibility that huge amounts of money could be donated by one donor, as I said, making lots of different donations. These loopholes have to be closed to protect the integrity of our elections. It is big money and corruption that is undermining trust in politics, as well as the Government, the Cabinet and the Prime Minister. Generally, people are concerned about corruption and lies. The big parties rely on big donors, obviously, but we need them to fix the system.

The Green Party's position on the injustice of prisoners' voting rights is that there should be no blanket ban on those rights. It is nearly two decades since the UK was declared to have been in breach of the European Convention on Human Rights for the blanket ban on prisoners' voting rights. Any decision to deny a prisoner their right to vote should be passed in sentencing, taking into account the particular circumstances of the individual case. I feel this is rather important because, of course, there is a possibility I could be arrested during the protests I attend, and I might get sentenced and sent to prison. Then, I would be doubly denied the right to vote, which I find quite oppressive. If people protesting are subject to the sorts of restrictions the Government are already trying to impose through the policing Bill, they are doubly denied.

The Government's priorities in this Bill are all wrong. I look forward to working with other noble Lords to improve it and, as far as we can, stop it in its tracks.

7.06 pm

Lord Naseby (Con): My Lords, it was a real pleasure to listen to the noble Lord, Lord Moore of Etchingham. I have never met him, other than through the written word, though I have to say I must have read thousands upon thousands of those words; I felt a chemistry and was absolutely delighted when he was able to join us.

I support this Bill. I am particularly pleased that my noble friend on the Front Bench is taking it through the House, because those of us who have served on other Bills he has been in charge of know that he has patience beyond belief and a thoroughness which we all ought to recognise. The noble Baroness just said, on voting patterns, that, basically, not having won under first past the post meant that she represented a bigger proportion of the population. When I was elected with a majority of 179 in Northampton South, I believed I represented all of the people of Northampton South, not just a marginal majority, or even a majority. Perhaps she was too influenced by the green movement, and anybody else was not to be represented by her.

I look around the Chamber and I think that we who were elected are in a minority, which says something, just by way of an observation. I say to my noble friend

[Lord Naseby]
on the Front Bench, though, that I think the size of the Bill might have been helped had there been pre-legislative scrutiny, even possibly some kind of Speaker's conference. Nevertheless, we have a large Bill and a lot of work ahead of us. I just want to highlight a couple of issues that I think are relevant. The report published by the Committee on Standards in Public Life, on regulating election finance, was an important one. I know Her Majesty's Government have responded to a number of the points made, but I suspect that more will come up in Committee and I think it deserves some real in-depth response.

There have been one or two comments about young people not registering. I happen to have two granddaughters, aged 17 and 16—thank goodness, otherwise I would not be the least bit competent in terms of modern technology. I mix with their friends, and they are all on the ball. Okay, they are middle-class; nevertheless, I believe that with modern technology, the online and the Twitters and all the rest of it, young people today, at every level of society, will take an interest—much more than we perhaps did as young people ourselves.

I also draw attention to the evidence given to my noble friend from the RNIB, about the difficulty in voting for some people, particularly the blind. Again, there have been major developments in terms of communication for the blind and the deaf, and I hope we can look at those sympathetically and not leave it totally to the discretion of the returning officer.

On photo ID, I do not have the problems that others seem to have. My noble friend Lord Leicester covered this in great depth this evening. I did have the experience of fighting a by-election in Islington North. I cannot remember whether it was the *Times* or the *Daily Telegraph* that observed how it appeared that in one particular community a large number of people—estimated at a dozen—were represented by one particular person who delivered the vote with the voting cards. At any rate, that issue has been dealt with, so we do not have this problem today.

I will raise one other issue that has not been raised by anybody else. As I have just mentioned, I was elected in February 1974 with a majority of 179 votes. I actually lost by nearly 200 on the first vote. I had a tip-off from the deputy returning officer saying, "Break the bundles". In those days, we voted with elastic bands around 25 votes—four 25s are 100—and a sticker on the top, "Lab", "Lib" or "Con". So I duly told my agent, "We need to break the bundles". Lo and behold, I actually won by about four or five votes the next time. Understandably, my opponent, the Labour candidate, said he wanted a recount—and I ended up with 179. I do think that we need to look at the security or accuracy of voting, so that we do not have to have all these recounts. It must be possible to achieve that in today's world.

Finally, I return to the fact that, on 19 February 2019, I had a very important Bill—the Extension of Franchise (House of Lords) Bill—which I was pleased to present to this House. It had a Second Reading but ran out of time. That was an important Bill because we are the only upper House, of nearly 200 in the world, where none of us may vote in a general election. The reason given, since 1699, is that we control finance here—but we do not. We do not vote on financial matters; those days have gone. It is high time to address this. With the help of my friend opposite, the noble Lord, Lord Blunkett, as well as the noble Lord, Lord Dubs—both of whom have had similar Bills—I hope we can produce a suitable amendment to this particular Bill.

7.12 pm

Baroness Chakrabarti (Lab): My Lords, I join the lengthy welcome queue to congratulate the noble Lord, Lord Moore of Etchingham. We have friends and—I believe—values in common. We have some differences, including perhaps even some around this Bill. But I have no doubt that he will be an asset to your Lordships' House.

To be a passionate democrat is not uncomplicated. It often comes with zeal for a particular political persuasion and programme—but surely also a jealous defence of rights, freedoms and the rules of the game. To have the privilege of being in government must surely be to attempt to balance the instinct permanently to campaign, and to use the tools of government in that endeavour, with the precious stewardship of our constitution in general, and our electoral system in particular.

The noble Lord, Lord Moore, referred in his eloquent maiden to the pandemic. For me, some of its most moving moments involved the courage and sacrifices of ordinary citizens, including volunteers and front-line workers, as well as the wonderful scenes of lines and lines of our people queuing for their NHS vaccinations—not unlike people throughout the democratic world, and history, queuing to exercise that precious right to vote. It would be odd and self-defeating for any democratic Government with a clear Commons majority to cast too much doubt on the integrity of our popular mandate in action—still more to be seen to legislate to make it harder for poorer people to vote and easier for the wealthy and powerful, and governing party interests, to influence the administration of the polls. This spring, the minimum wage for people over 23 will rise to the princely sum of £9.50 an hour; and universal credit for those aged 25 and above will rise to £334.91 per month. Therefore, at £75, a passport costs a great deal of money for many of our ordinary citizens.

At the risk of irritating some of my noble friends—and perhaps not for the first time—I have spent a great deal of my working life in concert with Liberals and Conservatives against the principle of compulsory photo ID before ordinary Britons may exercise their fundamental rights. So I shall be listening to, and working with, noble Lords across your Lordships' House on amendments on voter ID and, furthermore, to achieve automatic voter registration for citizens. If a national insurance number is automatically generated and issued on an 18th birthday, why not a registration to vote?

A poignant moment of contemporary cinema comes to mind. In Ava DuVernay's 2015 "Selma"—which I commend to all noble Lords, particularly those who propose to spend time in Committee on this Bill—a care home worker, played by Oprah Winfrey no less, seeks to register to vote. A white male bureaucrat

accuses her of "starting a fuss". He proceeds to ask her to recite the preamble to the United States constitution. He asks her, "Do you know what a preamble is?" As a viewer, I had my heart in my mouth, along with—I have no doubt—my democratic friends of all stripes on both sides of the Atlantic. She begins, "We the people", and proceeds flawlessly—I am not spoiling the film; there is much more to it—before he interrupts with, "How many county judges in Alabama?" She says, "67", and he replies, "Name them". She sighs and, on her application, he stamps "Denied". The rest, as they say, is history.

7.18 pm

Lord Cormack (Con): Well, I am sure we are very grateful to the noble Baroness for that moving conclusion to her very interesting speech. Listening to every speech this afternoon, there has been one subject on which every Member has spoken and agreed: the excellence of the maiden speech of the noble Lord, Lord Moore.

Beyond that, there has not been a particular degree of unanimity. Many noble Lords have real misgivings about this Bill, or aspects of it. I will begin by saying that I enthusiastically support the Bill on one issue: dealing with the gerrymandering of postal votes. I think we can all agree that that does nothing but bring the system into disrepute where it happens—Tower Hamlets has been cited many times.

On the issue of compulsory ID, I am one of those who, unlike the noble Baroness who has just spoken, gave support to the Labour Party's suggestion that we should all carry those documents. Had that happened, of course, there would have been no problem. But some very important points have been made, not least by the noble Lord, Lord Janvrin, when he talked about the millions of missing votes.

I agreed very much with the noble Lord, Lord Grocott, when he said he did not think there was justification for extending the 15-year limit to those who live abroad. If they have lost contact with their home country, it is by their own choice. Many of them are not taxpayers. If they were, there may be a case, but it is not something I could get enthusiastic about, although I could not help, as a former remainer, thinking that had they had the vote in 2016, the result might have been rather different—but that is another point.

The noble Lord, Lord Hayward, was right when he said that after 22 years it is right that we reassess the role of the commission. I am delighted that my noble friend Lord Young of Cookham has taken his seat; I am sorry he was not able to take part in the debate because he and I—he as the shadow Leader of the House and I as his deputy—had the task of speaking for the official Opposition in the debates 22 years ago when the Electoral Commission came into being. Both he and I gave it enthusiastic support. Of course, after 22 years it is right that it should be reassessed.

But I have never seen such chilling words in any Bill from any Government of any party. The noble and learned Lord, Lord Judge, in his splendid speech, has already referred to them. The

"statement for the purposes of this section … is a statement prepared by the Secretary of State that sets out … strategic and policy priorities of Her Majesty's government relating to elections".

I will not read the rest; the noble and learned Lord, Lord Judge, read it. But they are indeed very chilling words.

One of the things that has increasingly concerned me over the last couple of years has been the tendency of this Government not to regard themselves as accountable to Parliament but to regard Parliament as a creature of government. We have seen this time and again with Christmas tree Bills and Henry VIII clauses. It is inimical to me as a one nation Conservative that Governments should seek to usurp the role of Parliament and not accept their accountability to it, and take an independent body, which is of course not perfect and could be improved, and make it their creature. That, in effect, is what those clauses—which I hope we will take out in your Lordships' House—do. They make the Electoral Commission the creature of government.

That is not only chilling—one thinks of what certain Governments might do. Somebody spoke earlier about the 2019 election. If the result had gone the other way, would we on this side of the House have supported a Bill that included clauses such as that? No, we would not. If we live by the mantra of "Do to others as you would be done by", we have a duty to cut out these clauses. They reflect no credit on government; they do not strengthen our electoral system in any way, by one jot or tittle; they do not belong in a Bill passed by a democratic Parliament—a Bill that should be strengthening our democracy and not weakening it. I finish there, but I really believe we must look at that very carefully and deal with those clauses.

7.24 pm

Lord Lipsey (Lab): My Lords, the noble Lord, Lord Moore, if he did not know it before, will now have the feeling that this is a slightly peculiar House. We have had a wonderful debate this afternoon with magnificent points made. I have to say I have found most of them critical of the Bill, but nobody has quite dared to call a spade a spade. This is a partisan measure; the great majority of it is partisan and designed to improve this Government's electoral chances. This Bill out-trumps Trump.

I will give two or three examples—they have all been referred to but not everybody has said them yet. First, voter ID: there is no evidence of any problems arising with the current system. But we now have the evidence of the respectable Joseph Rowntree Foundation, which shows that 1.7 million, mostly low-income, voters will be disenfranchised as a result. Are those natural Labour voters, Lib Dems or Greens, who will be disqualified? Yes. Are they Tory voters? No. One big gain for the Conservative Party.

Take the 15-year limit for overseas voters being able to vote in the UK. This, in the words of the leading constitutional expert Professor Robert Blackburn of KCL, flouts two important principles of the British electoral system: that the basis of the parliamentary system is the representation of constituencies and that the basis of the right to vote is one of residency in a constituency. Let these fundamental principles go hang, for the Government have a more fundamental principle. All those Tory voters sipping their gins and tonics on the Costas should be allowed to go on voting as long as they can, even when they have lost all association

[LORD LIPSEY]
with their home country. We know what will happen; anyone who has been in this House knows that we will again start getting letters from these people saying they are pensioners being unfairly kept down because they have not got votes. This is another partisan measure.

Dropped in at the last minute was the substitution of first past the post for the supplementary vote for mayors and police commissioners. Is that really a considered response to the relative weights of electoral systems—something which, as a member of the Jenkins committee, I have spent only too much time thinking about? Of course not. It goes like this: the latest Redfield and Wilton opinion poll gives the Tories 33% of the vote. It gives Labour 39%, with the Lib Dems on 11% and the Greens on 7%. Under first past the post the Tories are doing pretty well—they will soon catch up with Labour and take the lead. But if most of those Lib Dems and Greens have a second preference for Labour—I think that is highly probable—it would be Tories 33%, Labour 57%. They cannot have that, and SV must go. Then there is the end of the independence of the Electoral Commission. If you may be losing the match, there is nothing like shackling the referee.

We really need an election Bill at this time. Most powerfully, we have the unimplemented proposals of the Law Commission for major changes designed to clean up our electoral system. We are not going to get that Bill before the next election because we have got this instead. It demeans those who have brought it forward.

I conclude with one short constitutional point. We are all taught when we come to this place—I was taught it by the noble Lord, Lord Cormack—that as a non-elected House we always give way to the elected House. In general, I would go along with that. But what if the lower House, put up to it by an unusually partisan Government, agrees reforms to elections designed not to make them more democratic but to create a partisan bias in favour of them? Should that rule still apply? In the next Parliament, after an election held under those deeply biased rules, does it apply then? Have I still got to allow everything a House elected under a bent system submits?

I do not answer that question yet because I deeply hope that, in Committee, the Bill will be greatly improved and the particularly offensive proposals it contains, such as those on the Electoral Commission, will be removed. However, if the Government go on pretending that they are doing this to improve our electoral system when they are actually doing it to improve their electoral chances, your Lordships have a right—indeed, a duty—to stand up and be counted.

7.30 pm

Baroness Meacher (CB): My Lords, I welcome the noble Lord, Lord Moore, whose excellent maiden speech I thoroughly enjoyed.

I share the considerable concerns expressed across the House about the introduction of political control over the Electoral Commission. The reference made by the noble and learned Lord, Lord Judge, to the proposals for the Electoral Commission as "chilling" clearly resonated across the House. Does the Minister really support the consequence of Part 3: that the sitting Government—which, somebody mentioned, could be led by Jeremy Corbyn, or perhaps even worse—would have the power to change how our elections are conducted and policed? The noble Lord, Lord Wallace, made the point that there is no evidence to support the need for this change.

My concerns about the provisions of the Bill are not limited to Part 3 but pretty much everything that needs to be said has already been said, so I will keep my comments brief. However, the Minister needs to take on board not only the depth but the breadth of concern about a number of the provisions in this Bill. Those have been expressed not only here but by many organisations, parliamentary committees, Conservative MPs and, indeed, Conservative donors.

As the noble Baroness, Lady Fox, quoted, experts in this field have said that this Bill would not look out of place in Hungary, Russia or China. That is one hell of a thing to say about a UK Government's proposition. It undermines our democracy and risks further reputational damage to the UK across the world. A major donor to the Conservative Party expressed his concerns on Radio 4 this week, saying that the Government are introducing policies that he would not expect from a UK Conservative Government. Surely he is right. Policies such as this one would not have been conceivable under previous Conservative Governments.

The Bill has been condemned from all sides. Free and fair elections are, as others have said, fundamental to our democracy. The Public Administration and Constitutional Affairs Committee points out that we could expect about 1.1 million people not to vote if the Bill goes through as presently presented with a mandatory voter ID requirement. David Davis, no less, a Conservative MP, describes this Bill as an

"illogical and illiberal solution to a non-existent problem."

Again, surely he is right. Since 2014, only three people in the UK have been convicted of voter fraud—impersonation, basically. Can it possibly be proportionate to introduce a policy resulting in more than 1 million people not voting in order to prevent an entirely insignificant number of people per election committing voter fraud?

According to the Electoral Reform Society—other noble Lords referred to this point—about 9 million eligible voters are missing from the electoral roll. Surely an important role for the Bill would be to do something about that appalling state of affairs. The voters lost as a result of the Bill would be concentrated among the very elderly, ethnic minorities and the poor, and could therefore significantly change the result of any election. As has already been said, this is a deeply partisan Bill with a very clear intention to skew election results. That is deeply worrying.

Along with others, I sincerely hope that the Government will take back these proposals and think again.

7.34 pm

Lord Hodgson of Astley Abbotts (Con): My Lords, I begin by associating myself with two themes that have been part of almost every other speech: first, the importance of a well-organised electoral system in

which the public have trust and confidence, which is a critical part of our democracy; and, secondly, I add my congratulations to the noble Lord, Lord Moore, on his witty and informative speech.

We have before us a very big Bill—my noble friend Lord Naseby had a point when he said that it might have benefited from pre-legislative scrutiny—but, in six minutes, one has to focus one's comments. I will focus my remarks on an area that has not had much attention so far: third-party campaigning. My interest in this is because I was appointed by the Government to review Part 2 of the rather inelegantly named Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act, hereinafter called the 2014 Act. I argued that, if a properly funded and properly organised electoral system is critical, a vibrant civil society is also a critical part of a well-functioning democracy. It is through the hundreds and thousands of charities, voluntary organisations and pressure groups, which are spread the length and breadth of the land, that our fellow citizens find ways to give power to their voice and opinions.

From time to time, of course, they will seek to speak truth to power, and sometimes power finds that uncomfortable. However, on the other hand, civil society is clearly not staffed entirely by angels, so there will be groups that seek to push the envelope in ways that are to the detriment of the system overall. That is why it became clear to me that, while some groups argued for the complete repeal of this part of the 2014 Act, they were wrong. If we are to avoid some of the unpleasantnesses that have emerged in the American electoral system and which have featured in other noble Lords' speeches this evening, we need to have a proper regulatory system that balances these two difficult things. Indeed, I entitled my report, Command Paper 9205, *Getting the Balance Right*.

I will pick up on one general point. Here, I pick up the point made by the noble Baroness, Lady Hayman, and later on by my noble friend Lord Hayward. Many people thought that the 2014 Act was an entirely new Act. It was not. It made amendments to Part 6 of the PPER Act 2000 and now, in Clauses 24 and 27, we are making yet more changes to Part 6 of PPERA. It becomes increasingly difficult and hard to understand the implications of what is being proposed. It seems a pity that a person inevitably has to reach for a lawyer to guide him or her through these statutory layers. It could be argued that the statutory framework that underpins our electoral system ought to be, wherever possible, comprehensible to the reasonably informed reader. Can my noble friend the Minister say when he comes to wind up whether the Government have any plans not just to consolidate the 2000 and 2014 Acts but to take in the Representation of the People Acts, particularly that of 1983, so that we have in one place a statute that covers the conduct of both local and national elections and associated matters?

On the implications of the Bill for third-party campaigning, there are some areas that we might wish to probe in Committee. First, the regulatory period before elections take place, which is set at 12 months, is arguably too long. The rules governing joint campaigning are arguably too complex. The rules defining membership of an organisation are arguably too lax. However, I want to spend my last minute and a half on the other major area of concern: what is known as the intent test.

The 2014 Act broadened the range of activities caught by third-party campaigners to those that

"can reasonably be regarded as intended to promote or procure electoral success".

This, it was argued, had what was called a chilling effect on all third-party campaigning. It is the Electoral Commission that decides what can be "reasonably be regarded", and it is no criticism of the commission to point out that it is not under direct democratic control. We come to the point made by the noble and learned Lord, Lord Judge, earlier; he and I are on the same side as regards making sure that the power of Parliament against the Executive is properly maintained.

This is not even secondary legislation; it is tertiary legislation. It follows the point identified in the democratic deficit report produced by the Delegated Powers and Regulatory Reform Committee of your Lordships' House in November 2021.

One way around this is for the Electoral Commission to produce a code of practice which would be debated and passed by your Lordships' House and by the other place. Compliance with it by a third-party campaigner would then have a statutory defence. We might look at this as a way of lancing this boil of suspicion and mistrust.

In conclusion, I absolutely support a proper, organised electoral system. It is important not just to politicians and political parties but to ensure that every one of us has a chance to express our views directly or through organisations which we support. This is why we need to get the balance right.

7.41 pm

Lord Sikka (Lab): My Lords, this Bill is part of a power grab by the Government and it is hard to find any redeeming features in it. I cannot support the imposition of photo ID for voting, against which many noble Lords have already spoken eloquently.

Where exactly is the evidence of voter fraud? In 2019, there was a general election, a European Parliament election, local council elections, mayoral elections and police and crime commissioner elections. There were only four convictions and two cautions for voter fraud in all those elections put together.

More importantly, where are the Government's credentials which show that they are interested in fighting fraud? The Government themselves have seriously facilitated ID fraud on a massive scale. Let me give some examples. For the payment of just £12, anyone from anywhere in the world can form a company in the UK. They can use imaginary names and fictitious addresses—absolutely no authentication check of any kind is made at Companies House. A few days ago, I drew the Government's attention, through Written Questions, to the names of directors registered at Companies House. These included "Adolf Tooth Fairy Hitler", "Lord Truman Hell Christ", "Judas Super-Radio Iscariot", "Victor Les-appy Hugo" and a "Joseph Smith Jr" who gave his occupation as "Guardian Angel of the Ring of Mormon", among others. All these were

[LORD SIKKA]
accepted, and these people got certificates of incorporation with which they could open a bank account and connect with the world's financial systems. In the past 12 years, there has not been a single legislative reform to curb this.

The Government claim that they are interested in fighting fraud. First, they cannot provide evidence of voter fraud. Secondly, their own records show that they have no intention whatever to do so. They are simply seeking electoral advantage by claiming that they are fighting fraud. There is no other reason.

The Electoral Commission tells us that the imposition of photo ID will prevent many people participating in their God-given democratic right. The commission has already fined the Conservative Party for failing accurately to report donations. The revenge has been swift. The Bill neuters the powers of the Electoral Commission and hands them to the Government, who will inevitably use them against campaigners, while those on their side receive less scrutiny.

Scotland uses proportional representation. It would be helpful to know if the Minister is going to force the Scottish Government to abandon that and use the first past the post system. This is what the Government are proposing, for England at least. The UK and Belarus are now the only countries in Europe to use the first past the post system for general elections. It guarantees that a party with minority support will always end up with a huge majority in the House of Commons. This is undemocratic and unacceptable, and must be opposed by all right-minded people.

The ability of trade unions and civil society organisations to engage and campaign is vital to the renewal of democracy and to enabling the voices of people who are marginalised and silenced to be heard. This Bill silences them. It does not advance people's rights in any way whatever.

People know that the political system is corrupt. It will remain so as long as political parties and individual legislators are funded by private money. Over the years, the Conservative Party has gleefully collected money from Russian oligarchs, smugglers, tax dodgers and other corrupt people. One in three billionaires in the UK donates money to the Conservative Party. But these people do not donate money, they invest—and they expect a return on that investment in the form of compliant laws, toothless regulators, subservient legislators and Governments who keep threatening laws off the political agenda.

The Minister referred earlier to the Political Parties, Elections and Referendums Act 2000 and said that it works pretty well. No, it does not, and I can give him plenty of evidence. I will refer to just one example, which relates to Lord Ashcroft's donations to the Conservative Party. Some years ago, he donated £5 million while he was a non-dom—in other words, he was not necessarily paying full taxes in the UK. The political contribution was made by a company called Bearwood Corporate Services. It was registered in the UK but had a director and secretary with addresses in the British Virgin Islands. From where exactly was the company controlled? You can guess. This company never had sufficient profits to fund those political donations. Where exactly did the money come from? It came from a company called Stargate Holdings Ltd, registered in Belize and controlled by Lord Ashcroft. To disguise the origins of that money, it was passed through three UK companies—Astraporta (UK) Ltd, Bearwood Holdings and Bearwood Corporate Services. Each was carefully designed to qualify as a small company under the Companies Act, so that it did not have to disclose its political donations. Astraporta and Bearwood Holdings did not trade with any third party and therefore had no profits out of which they could make the donation. It is clear that the law is being subverted and not complied with.

Finally, freeing political parties from corporate money is a necessary precondition for curbing political contributions in this country. I look forward to working with others who seek to achieve this end.

7.48 pm

Lord Shipley (LD): My Lords, this has been a compelling Second Reading. I too extend a very warm welcome to the House to the noble Lord, Lord Moore, and congratulate him on his maiden speech.

Like many, I find this a worrying Bill. Some things in it are helpful and important, but it represents a missed opportunity. It seems to originate more from the self-interest of the Conservative Party, when it could have been about widening engagement and introducing significant constitutional reform.

In Germany, part of the new Government's programme is to introduce votes at 16. Here, this was rejected in the other place on grounds that sound very similar to those used by the opponents of reducing the voting age from 21 to 18.

There is no attempt in the Bill to learn from Scotland and Wales, nor to discuss ways in which electoral divergences across the UK might be reduced by England learning from the positive experiences of the other home countries. That should include proportional representation for local elections in England.

Despite what the Minister has said, the Bill contains clear attacks on the Electoral Commission through the Government's attempts to damage the standing and the independence of the commission from what seems to be its own narrow, party-political interests. We should not allow any Government to control the commission's strategy, nor its policy priorities. It must be independent of any party and any Government, otherwise it simply becomes a government-controlled quango.

I said earlier that a few things in the Bill would be helpful in principle and subject to further discussion in Committee. I support proposed limitations on proxy voting. Digital imprints and online application services seem right. A three-year period for a signature on a postal vote to be valid before it is renewed seems right. I support the principle of regulations on undue influence and on preventing postal vote harvesting. However, we should reject voter ID at polling stations because, as many have said, it is a disproportionate response lacking evidence of the problem needing to be solved but which will, in turn, create other problems by denying some electors who do not have photo ID from exercising their democratic rights. I hope that the Minister

will pay close attention to what the noble Lord, Lord Willetts, said on this matter, because it could offer a way forward.

I am concerned by the Government's wish that new EU citizens in the UK should be able to vote in local elections only through reciprocal arrangements. That means that most will not be able to do so unless the Government pursue reciprocal agreements more actively. If new EU citizens pay council tax, they will face taxation without any right to vote on the policies of their local authority. There is an issue of principle here, to which the noble Lord, Lord Kerr, drew our attention. I would like to explore it further in Committee. Do we believe in the principle that there should be no taxation without representation?

Like many speakers, I have a very major concern in the late addition in the Commons of first past the post voting in mayoral elections and police and crime commissioner elections. The levelling-up White Paper talks of a further devolution of decision-making powers to local leaders, where it says that

"decisions are often best taken".

It says that there will be a "new devolution framework" and a "revolution in local democracy". That revolution seems to be mayors elected by the first past the post system, because the Government want an accountable local leader—one person with powers over a big geographical area and a large population. If that happens, I forecast that they will end up as part of Whitehall, because control will stay in Whitehall. There will be funding settlements with elected mayors forced to compete for funding with each other through a process which will be centrally managed by Whitehall and the Treasury. Crucially, there will be no powers over taxation, yet real power requires those levers.

So much for the revolution in local democracy. The Government have been keen to cite Medici Florence as an example to emulate. I can think of several very good reasons why this might be a problem, so I suggest that the Government consider instead the Basque Country and its success in regeneration, which results from very full devolution of responsibilities and decision-making involving private and public sectors working together, and with substantially more powers than the Government are currently proposing for England.

Let me ask the Minister a very specific question. Why do the Government think that a third of those voting being enough to elect a mayor with such significant powers but with no evidence of majority support is the right thing to do? London at least has an assembly. Why do the Government deny this opportunity to other parts of the country? In Committee we will have an opportunity to explore some of these matters further.

7.54 pm

Lord Monks (Lab): My Lords, I too congratulate the noble Lord, Lord Moore, on his entertaining and reflective maiden speech. I look forward to his future contributions, especially if he continues to reference approvingly *The Ragged Trousered Philanthropists* of Hastings, a book which is essential reading on both sides of this House.

As a former general secretary of the TUC, I approach this Bill with a combination of weariness and anger—weary because those provisions on campaigning will without good reason curb and further complicate the role of trade unions, which are already heavily regulated, particularly since the Acts of 2014 and 2016; and angry because it seems a rite of passage for every Conservative Government to ladle another dollop of expensive red tape on trade unions. Meantime, we read regularly of huge donations being solicited by the party opposite, including through cash for access schemes, a subject which predictably does not get a mention in the Bill. My conclusion, shared with many noble Lords in the debate, is that the Bill is irredeemably partisan in its present form. What happened to the traditional efforts to find cross-party agreement on these matters? Even the Committee on Standards in Public Life is getting sidelined. Partisanship, not democratic fair play, is driving government action.

I want to briefly draw the attention of the House to two problems with the Bill. There are more but, in view of the time, I will select just two. The first is of major concern to many noble Lords in this debate. It is the clause providing the Secretary of State with the power to "direct" the Electoral Commission. There is no doubt about what that means. It ends the commission's independence. This is an anti-democratic move which this House should, and I believe will, oppose.

My next concern has not got so much attention but was certainly raised by my noble friend Lady Hayman of Ullock. It concerns the provisions of the Bill on joint campaigning. In effect, our concern is that this could affect the right of organisations affiliated to the Labour Party—predominantly trade unions—to campaign in their own right without expenditure falling within the Labour Party's expenditure limits. This ignores that unions are independent organisations. They choose whether to affiliate to Labour and, whether they do or not, they keep their independence. They are not departments or agents of the party. They retain freedom of action. Individuals are not pressured to pay the political levy. Indeed, they now have to contract in to do so. I am pleased to note, by the way, that 4 million people do so, although obviously some do not. The idea that their organisations should become harnessed in an operation with the Labour Party on all campaigning matters completely rewrites the relationship and is unacceptable to all of us in the union world.

A further worry is that if the affiliated unions and party come to be regarded in effect as one campaigning organisation, expenditure on campaigns incurred by the party, currently classified as Labour Party spending, could be redefined as joint campaigning. This could make unions liable for substantial expenditure by the party merely by dint of their constitutional relationship. As I understand it, the Electoral Commission would be expected to define and adjudicate on what is and is not joint campaigning—and remember that this is an Electoral Commission which could, if the Bill goes through in its present form, become subservient to government direction.

There is no problem here that needs fixing. There is already a great deal of regulation, with strict spending limits and transparency already in place. For example, there is a high bar on transparency on the specific issue of trade unions campaigning for Labour. The Committee on Standards in Public Life thought that there was no problem, provided there was transparency.

[Lord Monks]
Therefore, I appeal tonight for the Government to take a leaf out of the book of the noble Lord, Lord Willetts, and be persuaded to take a much less partisan approach and look again at the Bill on a cross-party basis. There are real concerns here and they need addressing.

8 pm

Lord Altrincham (Con): My Lords, I compliment my noble friend Lord True on his excellent introduction to this rather complex Bill. I will comment on the topic of overseas electors, which has been commented on several times already. I note in particular the comments made by the noble Baroness, Lady Hayman, and the noble Lord, Lord Wallace. There is obviously controversy around some of this, but I will make a few comments about it.

The history of overseas voting goes back a long way to 1918, when service men and women were allowed to vote outside the country. Overseas votes became very significant in 1945 because, as noble Lords know, they contributed around 2 million to the franchise and delivered perhaps 10% to the landslide of that year. However, civilian votes outside the country are relatively new. They started in 1987 and initially were allowed only for people who had moved out of this country for a period of five years. That was increased to 15 years in 2000. The Bill seeks to extend that to life following manifesto commitments made since 2015, including at the last election.

The significance of this is that the UK might proportionately have more of its population living around the world than any other OECD country. The numbers are striking. There are at least 400,000 British citizens living in Spain, 400,000 in Ireland, well over 1 million in Australia and well over 1 million in North America. The current estimate, based on the current arrangement of 15 years, is that the franchise is theoretically open to nearly 1.5 million people. Although the number seems extraordinarily soft, the current expectation is that the franchise might increase to another 3 million people under these arrangements. Thought of in constituency terms, for UK passport holders and UK citizens, the UAE, New South Wales and California could all be larger constituencies than the Isle of Wight. There are great concentrations of British citizens in different parts of the world at this point.

The passage of this Bill provides an opportunity to look at what is really happening with registration and this franchise. Registration is extremely difficult. There have been repeated efforts over the years, including campaigns organised by the Electoral Commission, to get people to register. One way or another it has proved very difficult, for reasons expressed already. There is the remarkable situation of applying by post and waiting for a reply, and plenty of people have found that nearly impossible to do.

The other core issue is the need to register in a British constituency. Noble Lords have made quite a few comments about this. At its heart, this franchise rests on the concept of the declaration of a local connection. That requires people to be resident and non-resident at the same time. They need to register in a constituency where they once voted, which they might not have visited for many years, and at an address that might no longer exist. We ask them to register in a constituency about which, as noble Lords have mentioned, they may know very little and their votes are counted alongside other people in that constituency. Even at 285,000—the peak number of this franchise, which was registered in 2017—that number could affect constituencies quite significantly. There would be enormous electoral effects on the basis of registering votes by constituency in the numbers that might be registered under this Bill.

The Bill comes at a time when other parts of the Government have, in effect, moved on on this issue. We heard views on the concept of taxation and representation, which seems to come up regularly. Before I get to that, the issue of registering people around the world, which is rather old-fashioned, sits uncomfortably with, for example, the EU Settlement Scheme which has been running in this country for the past 18 months. It allows European citizens to register through ID on their phones and is handled centrally by the Home Office. It is perfectly possible to register large numbers of people centrally, using cell phones.

On the topic of taxation and representation—which, of course, we have historically had issues with—it is worth bearing in mind that the last Labour Government extended the tax horizon for our citizens who leave from one year to six years of tax exposure or responsibility to the UK. The period in which HMRC might seek to chase our citizens is fully six years, so we already have a significant need to represent these citizens merely on the grounds of tax.

I am aware of the time limit, so I will finish briefly. I think the comments already made about registering citizens in overseas constituencies need to be looked at. It may be too soon, but other European countries already do this, and it is notable that French citizens in London are represented in the French parliament.

8.07 pm

Baroness Barker (LD): My Lords, electoral law is perhaps a somewhat arcane topic, but it often defines a society because it tells us who are regarded as being citizens with power in a particular society. Electoral law can also define a Government. The Government of Earl Grey in 1830 was known as a reforming Government. It brought in the Great Reform Act 1832, which extended the franchise. I wonder what, in years to come, people will make of this legislation brought in by this Government, contrary to much of the evidence and research quoted extensively tonight.

I will confine myself to two points in this short speech. Much of what the noble Lord, Lord True, said could be described as, "This is the Government making great efforts to extend our democracy." I have spent quite a bit of time, with the noble Lord, Lord Hodgson of Ashley Abbotts, looking at citizenship and civic engagement. Back in 2017 and 2018, we looked extensively at the work done by government to extend citizenship education in schools. We have recently looked at it again, and, in truth, we do very little to ensure that children leave school with the most basic knowledge of how to participate as active citizens in this country.

We have a low basis of teacher training, and we have no cross-governmental responsibility for ensuring that we have professional teachers qualified to teach this.

While we are quite happy to pay lip-service in legislation such as this, we are unwilling to look at what we need to do to equip our citizens to participate fully, not just in terms of their personal social development but to acknowledge how they play an active part in the decision-making of society.

My second point is about voter ID and voter registration. There is a correlation between those of us who are members of minority groups and who have often had problems and been questioned about our identity and the equanimity, or lack of it, with which we approach the Bill. It is not until you are a member of a visible minority that you really get to understand just how easy it is to fall outside the norms of society. I want to take this opportunity to talk on behalf particularly of non-binary and trans people. They have no other representation in our Parliament. They are a group of people who are quite often—daily—vilified and misrepresented in our country, but they are citizens. They have expressed great reservations about ID. I think that trans and non-binary citizens should be required along with everybody else to prove their identity, but it is up to the Government to make sure that the systems of proof of identity are not based on prejudice or narrow, conventional ideas about what proper voters look like.

Therefore, I want to ask the Minister the following question. This piece of legislation had very little discussion and scrutiny before it came to this House. Will his Government undertake to talk to representatives of all sorts of minority communities about how the legislation will be implemented and what sort of training there will be for the officials who have to implement it, to make sure that it is not discriminatory in the way that is feared?

In this day and age, when commercial companies that truly understand the importance of being able to diversify access to their goods and services can do so in ways that maintain integrity of systems of ID, it is not beyond the wit of a Government to do that. As it stands, this legislation is nowhere near anything that could be considered inclusive. This Government really could do much better.

8.12 pm

Lord Balfe (Con): My Lords, this is a very interesting Bill. It gets us into an even bigger mess than we were in before we started.

I believe in the principle of no representation without taxation. I spent almost 40 years living part of the time in Brussels. I paid my local tax there. I carried my national identity card, which was my voter ID card when I went to vote. It never caused me any problems; I never really thought about it. So I just do not sign up to all the business about the difficulty of having a card.

But the Bill has some very funny things in it. New Clause 1A(3) introduced by Clause 12 gives the right to vote to people who are living abroad and who have never been on the register here. I think instantly of my dear 75 year-old sister, who left Great Yarmouth at the age of seven and has lived in Dublin ever since. I do not know that there will be a branch of Fine Gael, which she has been active in all her life, for her to join here. Really, are we going completely mad, when we are giving the vote to 75 year-olds who left Britain at the age of seven? It happens that when my sister lived here, she was in the constituency of the Secretary of State for Northern Ireland. So, from Dublin, she will be able to vote for the Secretary of State for Northern Ireland. Colleagues, we have gone mad, have we not?

I share many of the points made by my good friend Lord Cormack about the Electoral Commission. I am not going to go into the detail as to whether the Government can or cannot, but when every member of the Electoral Commission, apart from our Conservative member, signs a letter such as they have, there is a serious problem and it needs sorting out. We cannot just go ahead with things as they are outlined in the Bill. The Electoral Commission must have enough freedom and free standing to be able to do its job.

I was a strong remainer. I think the Electoral Commission went too far during the course of the referendum campaign, became too partisan and needs some change, but the change needs to come on an all-party basis. We must have a broad consensus, otherwise what happens? There will be a change of government. I am sure the Labour Party is fine and upstanding, but it will certainly be tempted to say, "If they could do it to us, we can do it to them". This is one of the areas of public life where it is essential to have some agreement between the parties.

I have been kind to the Labour Party for long enough. On the matter of trade unions' support for funding and campaigning, they have to decide where they stand. Some 30% of trade unionists vote for the Conservative Party. That is not reflected in their political activity. Our colleagues will tell us that, of course, people can opt out, but the trade unions really have to get themselves up to date. In part that means, as Sharon Graham said, they have to start representing their members and stop trying to run the Labour Party. That is important on the way forward, because they do not need to support the Labour Party any more, frankly, than we need Russian money.

Colleagues and friends, I am very unhappy that we get so much money from big donors, because donors do not pay for nothing. These various shady people are not paying for nothing any more than Len McCluskey was paying for nothing. I would like to see a radical overhaul of party funding on both sides, because it has got us to a position where the whole of democracy is now starting to smell. Those on the Liberal Benches may well nod; they have also had their problems. People are looking at it and saying, "It's not really our democracy, is it? It's them up there", so we have to tackle that.

Finally, the move to abolish the alternate vote is a severe backwards step. Personally, I believe in proportional representation; I think it gives us better government. I have worked in Europe for 40 years. People who tell me that strong government comes from our system need to look at places such as Germany, the Netherlands, Denmark and the Scandinavian countries—countries that have run very good Governments for a very long time on the basis of proportional representation. It is

[Lord Balfe]
an idea whose time has most certainly come. It deserves close looking at, and I do not mean look at it as Tony Blair did, when you think you might need it to get into government and then say to Paddy Ashdown, "I'll give it to you for Europe, but I can't go any further".

We need to look at how we run society, and I put it to the House that when we do so, we might find that a PR form of government is a much fairer way of running our society. I think I have upset everybody now.

8.19 pm

Baroness Bennett of Manor Castle (GP): My Lords, it is a great pleasure to take part in this hugely rich and informative debate that has so comprehensively torn to shreds the Bill and the methods by which it arrived in your Lordships' House. It seems unfair to pick out one speech among so many brilliant ones, but I will highlight the contribution of the noble and learned Lord, Lord Judge, on such a crucial issue. On the global stage, should a nation emerging from dictatorship produce a constitution with an electoral commission under government direction, we would waggle our fingers and say, "Have another go". I must warn the noble and learned Lord that I intend to ensure that his speech gets as wide a circulation as possible. The noble Lord, Lord Kerr, may warn him about the potential consequences of that.

That leaves me with a challenge for I adhere to the principle of trying never to rise in your Lordships' House unless I have something different and substantive to add. I begin with a statement that may come as a shock. I thank the Minister and the Government for this Bill and welcome its arrival in this House. I welcome it because, in bringing up all these issues—as the Government have found with Clause 9 of the Nationality and Borders Bill—and seeking to make disastrously bad elements of our current outdated, undemocratic, dysfunctional systems worse, while seeking to follow the Trumpian path of populist destruction, it provides us with a wonderful opportunity to show how much we need to radically transform our current system.

Those of us who understand that the people meant what they said in 2016, that they wanted to take back control—control of the planning in their communities, including protecting green spaces; control of their lives through decent jobs with a real living wage; control of Parliament, with a Parliament that actually reflects the view of the people, not just the 44% of those who voted handing over 100% of the power to Boris Johnson—now have a great opportunity. This is a stage to present all those proposals for making the UK a democracy.

This is rather like a bear that has dipped its paws into a bee's nest and hopes to run away with some honey before its residents can muster a response. Yes, my use of that simile is deliberate, given the issues I raised earlier in Oral Questions over the Prime Minister's inconsistent responses to my honourable friend Caroline Lucas's questions in the other place about the Russia report. The Government are going to find that they have raised a swarm of opposition, and one that is determined to rebuild this hive into something stronger, smarter and more efficient, fit for the 21st century. This afternoon I saw the giant billboard from the Democracy Defence Coalition, involving groups including Unlock Democracy and Make Votes Matter, setting out all the things we can use this Bill to make better. Noble Lords who are in Millbank House and who looked out of the window will have seen it, too.

I am going to take a couple of minutes to create a portrait of what we could do to create a decent modern constitution for the UK. First, because they are the future and the generation that will live it, we should have votes at 16. We have them in Scotland and Wales; why should England's young people miss out? I talk to a lot of 16 and 17 year-olds. They are at least as well informed as the average 60 year-old, and they are experts on being a 16 year-old today in a way that no one who speaks for them in either Chamber can be—and certainly, I am afraid, those in your Lordships' House are not.

Next there is automatic voter registration. I follow the noble Lord, Lord Willetts, on this. Many noble Lords, including the noble Lord, Lord Moore, in his maiden speech—and I must welcome him to the House as a fellow former newspaper editor—noted the gradual expansion of the franchise over history. The final logical step, making sure that everyone actually has a vote, is automatic voter registration, so you do not have to jump through those mysterious hoops. So many people naturally think, if they are on the council tax roll or enrolled in a university, living in official accommodation, that the state knows where they are and who they are. The voices who we must hear most, those struggling in poverty, suffering discrimination and exclusion from society, are the ones who are least likely to be able to navigate the current system. That is obviously the absolute reverse step of voter ID, which is restricting the franchise, going backwards. There is no way the Government can justify this voter suppression tactic, taken straight from the US far right. When only 30% of registered voters turn out in council elections and less than 70% in general elections, there is no justification for acting to reduce the turn out even further.

As the noble Lord, Lord Balfe, said, we need a proportional system for electing both the Commons and the Lords. We share the current first past the post system with Belarus. That is not really a recommendation, is it? The Minister in his introduction suggested that PR was too difficult. I say that it is first past the post that is extraordinarily difficult for voters. They have to guess how everyone else in their constituency is going to vote and try and adjust their vote accordingly, very often voting for the party they hate second most to stop the party they hate most getting in. We also need to see decentralisation, power taken out of here and put back into communities.

I finish by circling back to those Russian bears. We have to talk about political fund raising. We need extremely tight restrictions on individual and company donations to parties and campaigns. A maximum of £500 sounds about right. The Green Party in 2015 was a pioneer in crowd-funding political campaigns. Many thousands of people threw hard earned £5, £10, £20 to support our efforts. Combined with state funding for politics, that is how we get the politics of the people rather than a politics of the plutocrats.

The Minister said he wanted a system fit for the modern age. I am happy to work with people around your Lordships' House to send the Bill out of this House looking exactly like that. It is a great opportunity.

8.25 pm

Lord Hannan of Kingsclere (Con): I crave your Lordships' indulgence on two fronts. First, I was in a Select Committee which removed me from the Chamber for a large part of your Lordships' deliberations. Secondly, I am going to be the umpteenth speaker to welcome the maiden speech of the noble Lord, Lord Moore of Etchingham. My grounds for being the umpteenth such speaker is that he was my editor nearly 30 years ago at the *Daily Telegraph*. If that strikes your Lordships as an implausibly long time ago, I can only say that he was something of a Mozartian child protégé in the world of journalism. He edited the *Spectator* when he was, I think, nine; the *Sunday Telegraph* when he was 11 or so; and the *Daily Telegraph* when he was 14. He was an absolutely model editor, fearless in his criticism of those in high places and absolutely impervious to praise from those beneath. Annoyingly, he now writes a column in the Saturday *Telegraph*. I say annoyingly, because I write one in the *Sunday Telegraph* and again and again I find that he has said what I was planning to say but much better—and today's debate is no exception. He has covered most of the points that I had in mind, so I will confine myself to making just one.

I think the noble Lord, Lord Wallace of Saltaire, quoted John Major on the "fragility of the democratic system". Those words come very easily, but let us ponder for a second how unnatural, how counterintuitive is the system which we have all taken for granted and about which we have become a little blasé. How odd that we elevate process over outcome. How odd that huge human populations care more about the honouring of a set of abstract rules, something that cannot be seen, or touched or heard or smell, rather than about the victory of their candidate—their tribe. Yet it is that counterintuitive and necessarily acculturated, learned notion that has made possible all the freedoms and personal liberties and comforts that we take for granted in modern liberal societies. Because it is unnatural, it is under constant pressure. If we look even at the United States, perhaps the first country founded in the ideal of popular sovereignty, we see how quickly people have moved back to taking a contingent, provisional view of elections. Almost without fail, every election is met by a series of acts of lawfare by whichever party happened to lose. That should not surprise us at all. The surprising thing is that they went for so long without that happening.

That is why I say that the act of voting needs to be enchanted—it needs to be given a little bit of magic and made to feel precious. After all, our vote, statistically, is unlikely to change very much. If noble Lords think back to the last time they cast a vote—not putting themselves in the shoes of a prospective imaginary voter but thinking of the last time they let a ballot drop from their fingers into that big black tin box—did they really think that the consequence of their vote would be more or less parking, or more or less housing or higher or lower council tax? Were they not doing it, at least on some level, out of a sense of civic obligation—a sense of duty?

It is terrifically important, if democracy is to be made to work, that the act of voting be magnified, dignified, almost sanctified, and given a sense of importance beyond the chances of one particular vote in one constituency making a major impact on policy. That is why, when there is a question of balance between potential fraud or devaluation of the vote and extra procedure, however minimal, our instinct should always be towards ensuring that people have absolute confidence in the integrity of the process.

By the way, I do not think it is that big a deal. Personation may not be a big deal, but neither is presenting identification. Most countries in the world do it. Countries with largely illiterate populations manage it. I rather agreed with the noble Lord, Lord Desai, who said that it was particularly patronising to suggest that somehow minorities were not able to vote in the same way as everybody else. In fact, if anything, I would have thought ethnic minorities in this country are more likely to have passports than the general population. It is a bizarre idea that being asked to demonstrate who you are is somehow off-putting. That is not the experience of pretty much anywhere else.

I am glad that the Front Bench opposite agreed on what I think are bigger issues in this Bill: the measures against harassment of candidates and those to crack down on some aspects of postal and proxy fraud. But I come back to saying that if we want people to vote and if we want to get away from the situation in which every recent election has been won by the stay-at-home party—in other words, the group of people who took the trouble to register to vote and then did not bother to vote on the day is always bigger than the single number of votes for any of the other parties—then we have to restore a sense that casting your vote is a thing of importance and dignity.

Of course, that will require some substantive changes. I would like to see a significant shift of power from Whitehall to town halls and from unelected functionaries to elected representatives. But it also involves making people feel that there was something special about that trip and that presenting their ID and casting their ballot was a civic act, one that dignified and elevated the process. If we do not do that, we are giving up on restoring honour, purpose and meaning to the act of casting a ballot.

8.32 pm

Lord Woolley of Woodford (CB): My Lords, I too very much enjoyed the maiden speech of the noble Lord, Lord Moore—sadly, he is not here right now. Today was the first time we have been in the same room together, but during the Brexit referendum we had a long telephone conversation. Afterwards, he wrote in one of his papers, "I had a conversation with Simon Woolley. I profoundly disagree with him, but he does seem like a rather nice chap".

I wish to focus on three aspects of this Bill: voter ID, voter registration and citizenship. I would also like it to be known that I will seek to make two amendments to this important legislation if I get the chance.

[Lord Woolley of Woodford]

First, there is almost zero case for our democracy to introduce voter ID to tackle fraud. In the last election, there were six convictions for voter ID fraud, with nearly 48 million people having voted. I tried to work out the percentages for that, but I gave up. It was too complicated—there were too many noughts.

Lord Scriven (LD): It was 0.000035%.

Lord Woolley of Woodford (CB): Yes, it was something like that. The Government often point to the suspected corruption in Tower Hamlets. I should remind noble Lords that that was mainly to do with postal votes, so voter ID would have made little difference. Interestingly, the Government have wrestled with Covid restrictions, seeking to weigh up keeping people safe and allowing our businesses and our society to stay open and thrive. They have tried to be balanced and proportionate. When it comes to voter ID cards, any proportionality and balance seems to have gone out the window. On one side, you have a handful of fraudsters—just a handful—from a pool of 48 million people and, on the other, you have the cost, which is anywhere from £40 million to £180 million, and the potential loss of 1.5 million voters, disproportionately from black, Asian and minority ethnic communities. It would be laughable if it were not so serious. There is no rationale for voter ID, unless that rationale is to lose voters from our democracy and spend millions that we can ill afford.

As some noble Lords may know, I spent 25 years with Operation Black Vote, being a disciple of Dr Martin Luther King, in a quest, like him, to give the disenfranchised a voice by registering black, Asian and minority ethnic communities to vote. It was one of our biggest challenges; on average, 24% of black, Asian and minority ethnic communities are not registered to vote, and when it comes to young Africans and Caribbeans that number goes up to 50%. It was a challenge then and remains one now—made worse, I suggest, because local authorities have fewer resources today for voter registration initiatives than they had 25 years ago when we started.

This legislation could be used for the greatest transformation of political empowerment and engagement since women were given the right to vote over 100 years ago—in 1918, to be precise. All we have to do is adopt automatic voter registration for those who are eligible; that is it. In one wonderful vote, we and the British Government would have paved the way for millions more to have a voice in our democracy. Today, above all, no one needs reminding of the preciousness of sovereign democracy. I am here to inform the House that when I table an amendment, if the Government embrace it and it is accepted, our democracy will shine brighter as one of the most inclusive and representative democracies in the world.

Your Lordships can sense my enthusiasm for automatic voter registration, right? I have been waiting 25 years for this historic moment of change. There is one caveat, though: there is no doubt that automatic voter registration would be transformative but—there is always a "but"—the second part of that, which is equally doable and massively desirable, would be to implement comprehensive citizenship learning in all our schools, starting with primary schools. At the moment it is up to schools and maverick teachers to ensure that citizenship is taught. Citizenship should be on a level with teaching maths and English.

How much do we really value democracy? Our democracy is not under threat from a handful of fraudsters. It is, however, undermined when millions are not registered and do not vote, and when hundreds and thousands of young people, men and women, barely understand the tenets of a vibrant, inclusive democracy. We have the opportunity to change that.

I do not work at Operation Black Vote any more—I head Homerton College at Cambridge University—but I am still a disciple of Dr Martin Luther King. Help his and my dream come true, simply by ushering in automatic voter registration.

8.38 pm

Baroness Pidding (Con): My Lords, I add my congratulations to the noble Lord, Lord Moore of Etchingham, on his excellent maiden speech. I am sure it is just the first of many wise and witty contributions that we will be hearing from him.

Across the globe, the UK is held as a benchmark and exemplar of liberal democracy. It is not just the venerable age of our democratic institutions but their strength and integrity that make our precious parliamentary democracy the envy of the world. This is something that we should be rightly proud of and is something worth protecting. It is with that in mind that today I will be a positive voice, in that I welcome the Government's Elections Bill. I pay tribute to my noble friend Lord Pickles for the work that he undertook in 2016 in producing his report on electoral fraud, and I am pleased to see a number of his recommendations included in the Bill.

I will focus my remarks on a few key parts of the Bill. First, I will address the introduction of voter ID, a policy that I have long advocated. I am glad to see that the Government are taking steps to introduce this much needed and responsible measure. I appreciate that this is a somewhat controversial issue and that some people are apprehensive, to say the least, about this proposed innovation. However, anecdotally, while standing outside a polling station on polling day during the 2017 general election in Harrow West, numerous first-time voters, many having just reached the voting age for that election, came up to us, as tellers, asking what they needed in the form of documentation or ID to be able to cast their vote. When they were told they needed nothing—no proof of ID—they were rather perplexed.

We in this country use ID for many daily and recreational activities, with no issue at all. I hope we can all agree that the integrity of our elections is of greater importance than buying alcohol, or entering a nightclub or pub. Why should the foundation of our democracy be treated with any less security? One of the great vulnerabilities of our system is the potential for votes to be stolen, and we must safeguard against this possibility. Millions of people across the UK use IDs quite liberally on Friday and Saturday nights or even just to collect a parcel.

Some have claimed that those who cannot afford ID would be disfranchised, and this is an argument I have sympathy for. It is therefore right that the Bill explicitly puts in provisions to ensure that every eligible voter, regardless of their circumstances, can access valid ID. The Bill proposes that a broad range of photo IDs will be allowed, but most importantly, it also includes the provision that a free voter card will be available to those without any other form of ID. The Government have gone to great lengths to ensure there will be no barrier for legitimate electors to vote while ensuring that it also strengthens our democratic system.

Included in the Bill are proposals to make changes to the administration of elections that will improve their security and accessibility. I welcome the Government's attempts to stamp out any potential for voter fraud by including sensible safeguards for postal and proxy voting. Party campaigners will be banned from handling postal votes, a stop will be put to postal vote harvesting, and it will be an offence for a person to attempt to find out or reveal who an absent voter has chosen to vote for.

It is also only right that the Bill takes steps to better support voters with disabilities to exercise their democratic right by removing restrictions on who can act as a companion to a disabled voter at a polling station and requiring local returning officers to provide support for a wider range of needs.

The Bill also addresses the growing concern around intimidation of politicians and campaigners. Many in this House, like myself, have experienced or witnessed activists and those running for office being victims of physical and verbal abuse and intimidation. It is a common issue in modern politics, which I believe that all in this House, and the other place, would like to see the end of.

I too warmly welcome the Government's proposals that are aimed at finally enshrining in law the rights of certain EU citizens to vote in local elections in England and Northern Ireland, elections to the Northern Ireland Assembly and police and crime commissioner elections in England and Wales. The change to voter eligibility means that EU citizens coming to live in the UK after 31 December 2020 will be able to vote in local elections only if the UK has a reciprocal voting agreement with their home country. A number of such voting treaties are already in place, and I understand that the Government are open to further such agreements with other EU member states. That is a most welcome prospect.

There are millions of EU citizens who have made the UK their home, contributing to our economy, well-being and culture. Likewise, there are over a million British citizens contributing to the economic well-being of the EU countries they now call home.

The right to vote is ultimately a privilege, which bears great weight on the governance and policies of our country. It is right that the British Government safeguard this privilege for British citizens and long-term residents. It is also sensible to take a reciprocal approach to widen the political franchise when it comes to foreign citizens living in the UK. I will be supporting the Bill, and I encourage noble Lords across the House to do the same.

8.44 pm

Lord Thomas of Gresford (LD): My Lords, the right to vote is indeed a privilege. I want to focus on Clause 9, the provision for the blind and partially sighted to vote. I have a real interest, in that for half of last year I was suffering from a cataract in my one and only eye, complicated by bleeding into the back of the eye. The result was that the printed page appeared to me as a complete blank. All I could do was read, with difficulty, a backlit iPad or laptop with reversed text and with the aid of a large magnifying glass. I could not have read a ballot paper.

Schedule 1 of the Representation of the People Act 1983 provides the rules that govern elections. Rule 29 states:

"(3A) The returning officer shall also provide each polling station with - (a) at least one large version of the ballot paper which shall be displayed inside the polling station for the assistance of voters who are partially-sighted; and (b) a device of such description which may be prescribed for enabling voters who are blind or partially-sighted to vote without any need for assistance from the presiding officer or any companion."

The device prescribed is known as the tactile voting device or TVD. It is made from a sheet of transparent plastic which is as long as the ballot paper and is placed on top of the ballot paper. On the right-hand side of the TVD are flaps, numbered from one at the top and so on down the page so that the number of flaps corresponds to the number of candidates standing in the constituency. The number printed on each flap is raised so that it can be felt by touch. Adjacent to each flap, the flap number is printed in Braille to assist those who are blind and Braillists. But there is no way for voters who are blind to know, without help, which flap on the TVD corresponds to which candidate, and to which party. It is only the number of the tab that is in Braille. Either the official in charge of the polling station or a member of their close family has to read out the names of the candidates and the order in which they appear on the ballot paper.

In practice, because of that inability to read the names of the candidates on the ballot paper, the vast majority of the 350,000 blind and partially sighted people in the UK currently find it impossible to vote without having to share their vote with someone else, often finding they have to name the candidate they want to vote for out loud. RNIB figures from UK elections in May 2021 found that four in five blind people felt that they were unable to vote both independently and in secret. A survey carried out by the RNIB gave many examples of the impact that this has. One said:

"My helper disagrees with my vote and I have no way to be sure she voted as I wished."

In 2019, Rachael Andrews, a 46 year-old lady from Norfolk who had no sight in one eye and only partial sight in the other, judicially reviewed these arrangements. Mr Justice Swift in his judgment said:

"A device that does no more than enable blind voters to identify where on a ballot paper the cross can be marked, without being able to distinguish one candidate from another, does not in any realistic sense enable that person to vote. Enabling a blind voter to mark ballot papers without being able to know which candidate she is voting for, is a parody of the electoral process established under the Rules."

[Lord Thomas of Gresford]
The RNIB subsequently agreed with the Cabinet Office that blind and partially sighted voters would be given an audio player alongside the TVD, which was trialled in Norfolk in the May 2021 elections, with a 91% satisfaction rate. Whether this or another solution is adopted, it is essential that there is a minimum standard of equipment uniformly available in every polling station to ensure that blind and partially sighted people can exercise their vote in secret.

The current wording in the Act is:

"The returning officer shall also provide … a device of such description as may be prescribed."

This Bill changes the wording by replacing that paragraph with

"such equipment as it is reasonable to provide".

Reasonable for whom—the particular returning officer, depending upon the resources allocated to him, or the blind voter?

Currently, a companion has to be a close member of the blind voter's family. That is removed in this Bill and replaced with anyone over 18 years. The dangers of that are obvious and I ask the Minister to explain the change. How could the voter be sure that her companion was giving her an accurate description of the ballot paper? What happened to the results of the audio pilot?

8.50 pm

Lord Lexden (Con): My Lords, I would like to return again to the issue of overseas voters, following in the footsteps of my noble friend Lord Altrincham. Exactly a century ago, his forebear Sir Edward Grigg, a brilliant man, was working as Private Secretary in No. 10 to Lloyd George—but no one should imagine for a moment that the peerage was bought from that notorious famous seller of honours.

Patience is sometimes rewarded—not often, in my experience, but occasionally. It is exactly 10 years ago that, as a fairly new Member of your Lordships' House, I called, along with other noble friends, for the removal of the 15-year limit on the voting rights of our fellow country men and women living beyond our shores. I set out the case for this extension of the franchise in detail during the passage of what became the Electoral Registration and Administration Act 2013.

Back then, I was told very politely by the noble Lord, Lord Wallace of Saltaire, the Minister with responsibility for electoral issues during the coalition Government, to go away and do some work on the important practical implications of this significant change: the means by which registration to vote could be made as easy as possible, whether votes could safely be cast electronically, the part that our embassies and consulates might play in assisting overseas voters, and so on. These matters were studied by a cross-party group under the chairmanship of my noble friend Lord Norton of Louth. Our report was well received when it was debated in Grand Committee before the general election of 2015. So considerable patience has been displayed by our fellow country men and women living abroad—but at last the promise, thrice delivered, will be fulfilled under this Bill.

The principle that this Bill enshrines is entirely right. I reject the charge that it is a partisan measure. Implementing it will give rise to practical issues, which the noble Lord, Lord Rennard, outlined in his characteristically measured way and which the noble Lord, Lord Grocott, described with characteristic and enjoyable gusto. We will no doubt return to them in Committee.

This legislation will bring us into line, belatedly, with other major democracies. The United States of America, France, Italy and the Netherlands, among others, all provide lifelong voting rights for their citizens living in other countries, as do Australia, Canada and New Zealand. It really is high time that the United Kingdom joined the international consensus—rather than "madness", as my noble friend Lord Balfe suggested.

I have seen for myself the strength of support for lifelong voting rights at meetings that I have addressed in other countries under the aegis of the excellent organisation Conservatives Abroad, chaired by my friend Heather Harper. I have also received much correspondence from those who have lost their votes after 15 years. One lady in her late 70s wrote to me: "Even though I expected it, when I received a letter from Corby Borough Council telling me I was no longer eligible to register as an overseas voter, I was devastated and still am. Since reaching voting age back in the 1950s, I have never, ever not exercised my democratic right to vote. But now I have been disenfranchised." Never again will such distress arise, thanks to this legislation. The 15-year limit is wholly arbitrary, and I am sorry that my noble friend Lord Cormack is so far unpersuaded that it should be removed.

With very few exceptions, British citizens abroad are debarred from voting in the national parliamentary elections that take place in the countries where they reside. The world over, the parliamentary franchise rests on nationality, not on residence or the payment of taxes. The noble Lord, Lord Wills, who had responsibility for electoral matters in the last Labour Government, said in the course of our debates in 2013 that

"taxation has never been a criterion for voting in this country and it is not now."—[*Official Report*, 14/1/13; col. 484.]

If it had been, Disraeli, who has been extolled in this debate by my noble friend Lord Willetts, would have been unable to extend the vote to the urban working class in 1867. Few if any of them paid taxes.

I have a remarkable man at the front of my thoughts today. Harry Shindler, a Labour supporter in his young days, has lived in Italy since the Second World War, when he helped to liberate that country from fascist control. He has devoted himself to two causes: the development of Anglo-Italian relations and the right to vote in elections in his native land. Last year, when he celebrated his 100th birthday, Harry was invested with the OBE by the British ambassador to Italy. It gave him enormous pride. Harry is the chief hero of the long campaign which this Bill brings to a conclusion. I shall always think of the clauses in it relating to overseas voters as the "Shindler clauses".

Finally, I too applaud the arrival of the noble Lord, Lord Moore. I have known him, though not at all well, since the early 1980s, when the greatest Tory I have ever met, TE Utley, dispatched him to Northern Ireland as a reporter on the *Daily Telegraph* to acquaint himself with the affairs of that wonderful part of our

country. He has long been a staunch champion of the union. I anticipate some tremendous speeches from him on that subject, which is dear to so many of us in this House.

8.57 pm

Baroness Prashar (CB): My Lords, elections are a core process within a democracy. Credible electoral processes increase the legitimacy of our political institutions and create trust. Electoral integrity is affected by how inclusive the process is. For these reasons, any elections Bill should command broad cross-party support. How elections are conducted is a matter of public interest. They are not solely in the gift of the governing party.

It is therefore deeply regrettable that this Bill was introduced with insufficient public consultation and that the Government have not taken fully into account reports by the Law Commission, the Committee on Standards in Public Life, and the House of Commons Public Administration and Constitutional Affairs Committee. PACAC took the view that the Bill should have gone through a pre-legislative scrutiny process. Such scrutiny would have ensured broader support and a better evidence base. As we have heard, grave concerns have been expressed in these three reports that the Bill will add to the existing complexity of electoral law.

PACAC has also said that several of the changes proposed are not set out in the Bill. These will be implemented via a raft of secondary legislation, which will add further complexity to the legislation and enhance reliance on delegated powers, hence reducing scrutiny by both Houses and relevant interested parties. These are serious concerns, particularly for a Bill concerned with the health of our democracy.

The Bill also falls far short of the Government's stated objectives of making UK elections more secure, modern, inclusive and transparent, and of protecting the integrity of the UK's democracy. The change proposed in Clause 1, which would require voter ID, will not make elections more inclusive. If we want inclusion, let us work on voter registration, as stated by the noble Lord, Lord Woolley. Strong objections have also been expressed about the impact this would have on certain groups and the possible turnout of voters. The Government's rationale for introducing this change is not very plausible. The level of fraud alleged is very low and the number of instances that result in a caution or a conviction is even smaller. Concerns have been expressed that the evidence to support an ID requirement is not good enough.

PACAC recommended that the Government should not proceed with this proposal until they had set out the criteria they used in their assessment of the proportionality of introducing this change and the impact on turnout. Will the Government pay heed to its recommendation?

The other area of concern is the changes proposed to the accountability arrangements of the Electoral Commission. The noble and learned Lord, Lord Judge, expressed the implications very clearly and effectively. As he said, they threaten the perceived and actual independence of the Electoral Commission.

The Electoral Commission is not a creature of the Government of the day. It exists to ensure the integrity of elections and guard the public interest. It is an organisation of constitutional significance. Proposals to give the Government the power to designate a strategy and policy statement for the Electoral Commission will undermine its independence. Of course there should be proper scrutiny of operations of the Electoral Commission and effective mechanisms to hold it accountable, but the Bill's proposals are not based on sufficient evidence to justify this change. The committee argued that Clauses 13 to 15 should be removed pending a formal public consultation on the proposed measures and that the Government should take into account any recommendations put forward.

The Bill also proposes that the extent to which the Electoral Commission has complied with the statement should be examined by the Speaker's Committee, and changes to the membership of the Speaker's Committee are also proposed. Given that the Speaker's Committee will be examining the commission's operations, it is imperative that no single party exercises a majority on the committee. Can the Government give an assurance that membership of the Speaker's Committee will not have a government majority?

Charities and civil society organisations play an important role during election campaigns, ensuring well-informed debates. Several aspects of the Bill will affect the engagement of those organisations and put a higher regulatory burden on them, hence limiting benefits to electoral integrity. The National Council for Voluntary Organisations has argued that the Electoral Commission's guidance covers the relevant issues relating to third-party campaigners and that this legislation will set back that progress. Clause 26 is targeted at organisations which are not transparent. However, registered charities are regulated by the Charity Commission, and their accounts are available online and open to scrutiny. The Government should exempt registered charities and community interest companies from the lower threshold.

Furthermore, there is concern that the proposal in Clause 25 to give Ministers powers to remove or add to the list of third-party campaigners by order could lead to abuse. It would be helpful to have an assurance that these provisions are not intended and will not be used to limit the public interest work of academics or voluntary organisations to inform public debate.

The deep concerns expressed by three reputable bodies about the Bill should give the Government pause for thought to reconsider what they are proposing.

9.03 pm

Lord Taylor of Holbeach (Con): My Lords, much has already been said, but I wanted to speak on Second Reading—not least because it is the tradition of this House that if noble Lords wish to speak at further stages of a Bill, one should speak at Second Reading.

This is an important Bill. I judge it by a simple test, and a very personal one, for I am a believer in active participatory democracy and that active political parties at the grass roots are the custodians of that tradition. I want to know how the Bill strengthens that tradition.

[Lord Taylor of Holbeach]

I believe that our democracy and our parties are not just for election day. They should provide a corpus of political opinion to shape policies and political ideas within communities. I join the welcome and tributes to the noble Lord, Lord Moore of Etchingham. He pointed out the way in which there has been a considerable decline in the membership of local political parties. I am a strong believer in participatory democracy. Some will analyse that mass voluntary political parties were a response to the enfranchisement of the last century. Some will say that, in modern times, they are largely irrelevant. If that is so, I regret it. I find that it is not sufficient for parties to rely on a world of opinion polling and modern communication.

Many of us on these Benches go back a long way in our commitment to voluntary party activism. You can hear my noble friend Lord Cormack talk of these times, including when I succeeded him as the chairman of Lincolnshire Young Conservatives—we all have to start somewhere. My noble friend Lord Hodgson and I went on a tour as senior volunteers in the general election of 1997. We went to 63 key seats, and we lost them all. Given this background, it is not surprising that I will be judging the Bill by the contribution it makes to preserving community focus in politics—

Lord Hodgson of Astley Abbotts (Con): No more, no more.

Lord Taylor of Holbeach (Con): Oh, I have a few more minutes.

It is essential that we have grass-roots activism, grass-roots fundraising and grass-roots presence as a political party on policy-making. I do not believe that this House would wish to see pop-up party machines dominated by centralised political structures.

In his opening remarks, the Minister mentioned the large number of speakers—this reflects the importance of the Bill to our participating democracy. Regardless of party, we all have an interest to ensure that our methods of elections are honest, fair and seen to be fair. That is what this Bill seeks to achieve.

9.07 pm

Baroness Bull (CB): My Lords, it is a privilege to have heard so many important speeches by virtue of my position on today's list. However, this leaves me little chance of adding anything original to an excellent debate in which we had the great pleasure of listening to the maiden speech of my noble friend Lord Moore—on which I congratulate him.

I will keep my contribution brief and focus on two specific concerns raised in the comprehensive briefings received from sector organisations, both of which relate to the risk of further excluding groups of citizens who are already challenged to engage in the election processes.

First, as we have heard from the noble Lord, Lord Thomas of Gresford, the Bill weakens the already imperfect protections for blind and partially sighted voters in exercising their right to take part in what is undeniably a visual exercise: the reading of names, the locating of boxes and the marking of a cross which is the act of casting a vote. Current provisions are in place for blind and partially sighted people, including the tactile voting device which we heard described. Even so, there is no way for a person without sight to review candidate lists without assistance. For the majority of the 350,000 blind and partially sighted people in the UK, participation in elections is not a private process, as it is for those of us who are able to see. It involves sharing their vote, often out loud, with another person. Respondents to an RNIB survey described this as not only humiliating but open to fraud, because there is no guarantee that the person helping them will put the cross against the candidate they choose.

The RNIB is concerned that, rather than building on improvements piloted following a 2019 judicial review—a review which described the current situation as

"a parody of the electoral process"—

this Bill will make voting even less accessible. It shifts the responsibility to individual returning officers to determine what provisions they deem reasonable at a local level. This creates uncertainty for blind and partially sighted citizens about what they can expect when voting or, indeed, what they are entitled to. The removal of the crucial phrase, "without any assistance", obfuscates for blind and partially sighted people the clarity afforded to the majority by the Ballot Act of 150 years ago: namely, that all citizens should have the right to vote independently and therefore in secret.

The second issue I want to address briefly is the potential for photo ID to impact negatively on voter participation. We heard from the noble Baroness, Lady Hayman, that while the Cabinet Office-commissioned research explored possession of ID with reference to race, disability and age, it failed to ask the question with reference to income status. Research from the Joseph Rowntree Foundation fills this gap. It finds that adults living in a household with an income of less than £30,000 per year are much more likely not to have photo ID compared with those with greater assets—6% compared with 1%. The research also found that some 700,000 low-income adults do not have photo ID in which they would be recognisable. Taken together, this means that around 1.7 million citizens would not possess the photo ID required to vote.

Researchers also asked whether they would be likely to apply for a voter ID card, and while half said yes, a worrying 41% were unlikely or unsure. Assuming the 51% happy to apply for a card did so, this would still leave some 700,000 UK citizens disenfranchised. We know that adults on low incomes in the UK are already less likely to vote or engage in political processes than their high-income counterparts, and this matters because it promotes an unequal representation of interests, and it limits the ability of low-income adults to influence political decision-making. The end result is that social inequalities grow ever deeper.

The Joint Committee on Human Rights has warned that voter ID proposals risk disproportionately disenfranchising people on lower incomes. This is not only discriminatory, it is bad for democracy. We should be doing everything in our power to encourage participation—teaching and enabling active citizenship, as my noble friend Lord Woolley so passionately argued. By putting new barriers in place, this Bill risks doing the opposite, further discouraging already disengaged communities from taking part in our electoral system.

9.12 pm

Lord Scriven (LD): My Lords, first, I declare my interests as set out in the register. Like many noble Lords, I welcome the maiden speech of the noble Lord, Lord Moore. He enlightened me, as someone who has not been to Hastings, that modern Hastings is more heaven than hell—and I am sure his fellow citizens will be very pleased to hear that.

This has been a very forensic Second Reading debate. But let us be clear that this is not just any Bill; it is a Bill that has significant constitutional implications. It will be the basis on which our electoral system will take place—the platform of our democracy, which citizens need to have unshakable confidence in, so they can know that their Government and their local elected representatives have got there through a free, fair and independent electoral system.

There are many provisions in this Bill that these Benches have sympathy with: securing the postal vote and dealing with potential fraud in the postal vote, intimidation and digital imprints are a few that we would support. However, we have heard from many noble Lords across all sides of the House that the Bill has significant flaws that the Government have not addressed in the other place. Therefore, it will be down to this House to do its best to ensure that we do our job to scrutinise and reform a Bill that has fundamental flaws and that will change—if it is not amended—the balance of how the electoral system works. It will, in effect, give a balance of power to the party of government. It will give that party an inbuilt set of advantages.

This is not the basis for a free, fair and independent electoral system. It goes against the very notion of fairness that this country is renowned for, and it will diminish our international reputation for having a system that is admired and beyond reproach. That is why, in doing our job, as many noble Lords have said, we should say that there are certain provisions and clauses in the Bill that should not be here and that the Government should seriously consider not going forward as part of the Bill. In particular, Clauses 1, 2, 14, 15 and 17 have significant flaws.

I have to say to the Minister that, when a Bill unites both the noble Lord, Lord Cormack, and myself, it means that there is some fundamental flaw in it. It is very clear that if the Minister's response does not give confidence to the House, we may do something which has precedent and, before it goes to a full Committee of this House, see certain clauses going to a Select Committee of this House—because this Bill has not had the pre-legislative scrutiny it desired. It has serious implications for the electoral integrity of our country. It is beholden on this House to deal with that with the seriousness it so desires and needs. So the Minister's response has to be far better and more detailed than the shoddy response the Government gave to the House of Commons Public Administration and Constitutional Affairs Committee's report. I am sure this will determine whether these Benches and other noble Lords decide whether we desire this to go to a scrutiny committee to seek further investigation before it goes to a full Committee of the House.

There are many provisions in the Bill, including the provision on voter ID, which are very controversial. I have to say, very gently, that I find irony in predominantly male, white, middle-aged and older men telling us that photographic ID is not an issue. When noble Lords from different demographics from those have said that there is a problem, those with the voices that may not be the loudest are again drowned out. We have to listen; voter photographic ID is an issue for certain demographics. The noble Lord, Lord Woolley, explained some of the issues to do with black, Asian and ethnic minority voters. My noble friend Lady Barker talked about some in the LGBT community. There is an issue with photographic ID which will mean that some people will not vote.

The Government say that we have to go on the precautionary principle on this, without any evidence whatever that there is significant abuse of personation in voting. Well, if it is about using the precautionary principle in legislation, why not have photographic ID to go into a supermarket just in case you are a shoplifter? The principle is flawed. It will have an effect on people having a right to vote. It is putting up barriers when actually we should be tearing down barriers for people to vote.

There is no significant evidence that anybody on the Government Benches has come forward with that somehow personation is a big issue in the electoral system in the UK. To answer the statistic put by the noble Lord, Lord Woolley, the committee in the other House came up with the figure; 0.00035% of all votes cast in 2019 were suspected and then prosecuted as voter personation. Many have spoken, including the noble Baroness, Lady Greengross, about such issues. The cost of this is not actually £180 million. The cost, depending on the number of people who will require voter ID, is somewhere between £180 million and £450 million, based on the report from the other place. So we will be scrutinising this part of the Bill very heavily.

These Benches, as my noble friend Lord Thomas of Gresford has pointed out, have sympathy for the calls from the RNIB to have on the face of the Bill minimum standards for people who are blind or partially sighted, and that there should be a provision for who the person helping them should be—not just anybody over the age of 18.

Issues of who is eligible to vote from overseas have been clearly shown to be controversial, and in some cases show levels of complexity being added to layers and layers of election law. There is particular concern about those from EU countries. As my noble friend Lord Shipley pointed out, you could have two people who live in the same house, who are from the same country, who arrived on different dates, who both pay their taxes and who do the same jobs, but one would be eligible to vote in local elections and one would not. Therefore, we need to think much more closely about a system of residency rather than a system relating to the country you come from for people to be able to vote in elections in the UK.

As my noble friend Lord Rennard pointed out, very significantly, while we welcome the extension of the right for people overseas to vote and doing away with the 15-year limit, there are clear issues about whether the intention is not just about voting but about the use of donations from very rich people abroad, some of

[Lord Scriven]
whom live in tax havens and who will fund a particular party in this country. There are real reservations about that. As my noble friend said—and I ask the Minister to respond on it—a commitment was made in 2019 to pass legislation that would ban large donations from anyone resident abroad for tax purposes. Has that been enacted and, if not, why not?

I come to two other issues. The first is first past the post, and its imposition on areas which have a mayoral system and police and crime commissioners. It is absolute nonsense to suggest that the public in this country do not have the ability to understand the alternative vote system. It has been used; it is used again and again. People in Northern Ireland use the single transferable system. If you want to talk about a difficult system, the single transferable vote system is far more complex than that used for mayoral elections, but there is no intention in Northern Ireland to take that away because it is seen to deal with people's votes in a more proportionate way.

The final issue is the chilling approach of doing away with the independence of the Electoral Commission. I do not think that any of us could add to what the noble and learned Lord, Lord Judge, said on this. It is absolutely breath-taking that a piece of legislation should talk about an independent regulator of the electoral system having to carry out the priorities of Her Majesty's Government. That completely takes away the independence of the Electoral Commission, and in no circumstances should it be in the Bill. As I already indicated, these Benches and others will fight that clause.

For elections to be free, fair and independent, they need to be built on a bedrock of a strong and functioning democracy, one that the public have trust in and one that they feel does not favour any one party or anybody who has friends with very deep pockets. That is why we on these Benches oppose many of the clauses in this Bill and will do our best to build a consensus with others across the House to make the Bill better so that it really brings about a platform for free, fair and independent elections to rest on.

9.23 pm

Lord Collins of Highbury (Lab): My Lords, I, too, start by congratulating the noble Lord, Lord Moore, on his excellent maiden speech. I must admit that I was a little shocked and surprised to hear him quote Robert Tressell's book, *The Ragged Trousered Philanthropists*. For me, the lesson of that book was about the importance of organising and the importance of trade unionism. I spent a lifetime in trade unions, and that was one of the very first books I read that motivated me to carry on my work.

I important thing that I want to start with is the general theme in my concern about the Bill. The ingredients of a thriving democracy are not limited to parliaments and parliamentarians. In countries where Governments fail to protect their own citizens, it falls to civil society to stand up for them and defend their human rights. As a country we understand that, because we invest money in supporting and developing civil society abroad. That is exactly what we are doing in Putin's Russia, where he can operate under cover of elections once every four to five years; he can attack fundamental human rights, and attack those with no voice or representation as the majority have—it is minorities who are consistently attacked, as we have seen with the LGBT community.

By the way, if I lose my voice, I apologise. I had Covid throughout the recess, and I have now had three days of negative testing, so I am alright to be here.

One of the things we have heard throughout the debate this evening is that the Bill represents a missed opportunity to update our election law on the new challenges facing all democratic countries. I absolutely agree with the noble Lord, Lord Hayward—I was going to say my noble friend, as we are friends outside the Chamber. He is right that this is a missed opportunity, as is my noble friend Lord Lipsey.

Why have we ignored the Law Commission's statement about ensuring that we have a sensible single framework which every part of the system can understand more easily? Why are we not addressing some of the serious issues about social media, most of which—like Twitter and Facebook—have appeared since legislation was introduced. Why are we not addressing dark money, misinformation and threats from foreign interference? The Opposition will be putting down amendments as soon as possible on this fundamental issue, particularly on illicit financing.

However, it is not just what is not in the Bill that concerns me; it is also what it contains. Like my noble friend Lady Hayman, I support the initiatives that deal with securing postal vote systems, ending intimidation of candidates and digital imprints—we welcome those things. But I am really concerned that the Bill proposes what are in effect further attacks on already highly regulated trade unions, which do anything but level the playing field. I bring this to the attention of the noble Lord, Lord Balfe. I spent two years sitting down in joint party-political discussions, with the Conservative Party and the Lib Dems. We were working together on doing something to end big money in politics. I agree with the noble Lord, Lord Taylor, that we need to focus on ensuring that local communities and activism support our parties—it is people not oligarchs who should be supporting our political parties. But that two years of hard work was completely broken by a partisan attack, which I think all members across this House will recognise, in the Trade Union Act 2016. We looked at ways we could ensure this was not addressed in a partisan way, and we set up committees to look at it but, sadly, it proceeded, if not perhaps in the way originally intended.

The changes in Section 26 are an attack on freedom of speech and association. They appear one-sided and targeted, and will tie non-party organisations up in red tape, breach long-standing conventions about getting cross-party consent for changes and, critically, are completely unnecessary.

I know how concerned many noble Lords across the House were with the 2016 Act and the one-sided way in which it impacted on Labour's main source of funding, breaching that convention on consent for changes in party funding. The noble Lord, Lord Butler, is absolutely right on the terms of the Speaker's Committee

and how it may be composed. It is a pity that the noble Lord, Lord Forsyth, did not participate in tonight's debate, because I recall his interventions on the 2016 Bill. He was really concerned about the partisan approach on such a fundamental issue. He felt it was unfair, unjust and actually wrong to our democracy to undermine the principal opposition party. That is not the sort of thing we accept in this country, but it went through. I hope that he will be able to contribute further in the debates we have in Committee on this.

My noble friend Lord Monks mentioned that since 2016 we now have trade unions where members have to contract into their political fund—they cannot be automatically enrolled and members must not suffer any detriment by choosing not to opt in—and 4 million people do. I come back to the point from the noble Lord, Lord Taylor. That is ordinary working folk who make a conscious decision to contribute, not necessarily just to the Labour Party but to ensure that their organisation, as Robert Tressell said, has a political voice that can ensure that their interests are represented just beyond Parliament. That is fundamental in my view.

One of the things that really concerns me—I mentioned it to the Minister—is the failure to provide a sufficient evidence base for the changes or to properly consult trade unions and civil society organisations. This again represents the partisan approach which will undermine democracy in our country. The TUC and the organisation representing affiliated unions were an afterthought on consultation. They were not involved in the first round of discussions. I want to make sure that this sort of attitude does not continue. It is really important that we have proper consultation on things that will seriously impact the ability of organisations to continue to represent their members. The failure to consult, as we have heard in this debate, is echoed by the Commons Public Administration and Constitutional Affairs Committee, which concluded its report on the Bill:

"We feel that the Elections Bill proposals lack a sufficient evidence base, timely consultation, and transparency, all of which should be addressed before it makes any further progress."

The Government's response to the committee, published on 10 February, failed to address any of its major concerns, as the noble Lord, Lord Janvrin, pointed out. The response even contained very contradictory positions, and everyone in this House should be concerned about that.

The changes proposed are compounded by the unprecedented powers given to the Secretary of State in Clauses 13, 14, 23 and 24, with the Government giving themselves powers to remove the right of entire categories of organisation from campaigning publicly at election time. As the noble Baroness, Lady Prashar, said, much of the detail of how the Government's proposals will work in practice is contained in unpublished secondary legislation. The Government have refused to publish this despite requests from the Electoral Commission.

I turn to an issue which has been of concern to many Members for some time. How do we raise awareness and engagement in our civic society? The noble Baroness, Lady Barker, raised this, as has the noble Lord, Lord Hodgson. I had the pleasure to be in a follow-up inquiry meeting of his Select Committee looking at citizenship and civic engagement. I was amazed at how little priority the Government gave to civic engagement and education in our schools, as the noble Lord, Lord Woolley, said. I tried to probe both Ministers and the schools inspectorate about this during the recent inquiry.

The Select Committee report recommended that the Government implement the recommendations of the review by the noble Lord, Lord Hodgson, on third-party campaigning. In their published response, the Government said,

"rules are not intended to prevent charities and other civil society organisations from undertaking legitimate non-party political campaigning."

They went on to state that

"the Government wants to work with civil society to ensure that civil society organisations have the confidence to continue their non-party political campaigning and advocacy."

It is incumbent on the Minister to tell us today how the Government's work with civil society organisations resulted in the proposals in the Bill. What was the result of their consultations with civil society organisations and charities? They have told me that the Bill threatens to restrict their campaigning in election years by lowering the levels at which they have to register with the Electoral Commission.

The Bill also gives Ministers unprecedented powers to add, remove or define "permitted participants" at elections. This means that Ministers may decide to exclude a type of organisation or a category of individual from spending more than £700 on election campaigning during the 365 days prior to an election day—the "regulated period". We no longer have fixed-term parliamentary elections, so this could, in effect, be a permanent restriction. I read the article by the noble Lord, Lord Hodgson, in the *Third Sector* magazine. I hope that other noble Lords will take the opportunity to do so. If a general election were called for this May, the regulated period would run back to May 2021. Effectively, charities would have to act as if they were always in a regulated period. This would close down civil society activism and the voice that people really want heard, which cannot be healthy for our democracy. It would have a chilling effect. It would be an attack on free and fair campaigning. I return to this point: all political parties need to listen to and hear civil society. It is often the way in which we change our policy. We hear from minorities and groups. We listen and communicate. The Bill will act as a block to that. It is why it is so chilling. It should address the barriers to participation in the democratic process, not put up more.

Evidence suggests that the Bill will make it harder for working-class people, older people, those with disabilities and learning difficulties, as well as black, Asian and minority-ethnic people, to vote. If the Minister does not agree, will he commit to a full and proper equalities impact assessment to work out if this is true? I hope he will respond to the point made by the noble Baroness, Lady Barker; it is vital.

One of the things I was struck by in this debate was the point the noble Lord, Lord Willetts, made about young voters. He was absolutely right. They are part of our

[Lord Collins of Highbury]
community but, because of having to live in rented accommodation, with short-term accommodation such as six-month lets, every time a six-month let is up, they fall off the register. It is so difficult to stay on the register. I must admit that when I hear contributions about valuing the vote and how registration to vote should be a privilege, my reaction is that it is not a privilege but an absolute right, and we should be doing everything possible to ensure that people can register to vote. I agree with the noble Lord, Lord Woolley: the most important thing is to have a proper system of automatic registration. We should not exclude anybody from the right to vote.

Trade unions represent millions of working people, but the Government have shown in the Bill a commitment to cut those people out of our democracy. My noble friend Lady Hayter is absolutely right on foreign donations. This is another piece of evidence of the partisan approach the Bill takes, which will benefit only one party. That cannot be right for our democracy.

To sum up, during the key stages of scrutiny on the Bill our focus will be on how its proposals will impact on the independence of the Electoral Commission. I heard the comments on that, and it is absolutely shocking. I do not know what justification the Minister will give for it. I remember that when the Electoral Commission was set up there was concern: "It's made up of people who don't understand the way that party system works. They don't understand how elections work. We ought to address that issue." We did: every single political party has a representative on the Electoral Commission, including smaller parties and the Scottish National Party. They have representation on it, and all of them signed the letter from the Electoral Commission, apart from one. I have huge respect for the noble Lord, Lord Gilbert, who is on the Electoral Commission. I share a lot of his concerns about the way parties operate, and it is sad that the partisan nature of the Bill has impacted on the work of the Electoral Commission. There can be no justification for these sorts of changes.

The Bill's proposals are also a breach of the convention that changes to the political landscape should be with the consent of all parties. We should strive to do that because, as noble Lords have said, what goes around comes around—whichever way round it is. Certainly there will be a Labour Government, and they will be a Government of honour and confidence. However, if we have been attacked in the partisan way that we have been, we will be under huge pressure to take action without the consent of the Conservative Party. That includes saying, "Why don't we take big money out of politics? Why don't we have a cap on donations?". The Tory party would be concerned about such a cap, but no other party would be. We have been doing what the noble Lord, Lord Taylor suggested, going to ordinary folk and making sure that we get the £5, £10 or £20 a week—whatever people can afford. That is who we will be going to, not relying on Russian oligarchs.

We will also come back on the key principles set out in the recent report of the Committee on Standards in Public Life. I will not repeat what noble Lords have said in this debate, but we will come back on those key recommendations.

On the independence of trade unions and political campaigning, my noble friend Lord Monks made the point very strongly that we are concerned about joint campaigning efforts. In effect, because of the constitutional relationship we still have—I wrote a very good report on the constitutional relationship between the Labour Party and affiliated trade unions—there could be consequences. Some may be unintended, but one clear consequence is that affiliated unions will suddenly be responsible for joint campaigning. It will eat up their political funds and therefore deny them the sort of political voice that we think is very important. Of course, for small, non-party organisations, we will be adding yet more unnecessary red tape in an area that, as we have heard, is highly regulated.

I have gone on far too long. In Committee, we will examine all these clauses and ensure that the two and a half hours devoted to Committee on this Bill in the House of Commons will not be replicated. We will do our job, and we will do it well.

9.46 pm

Lord True (Con): My Lords, it sounds as if I had better get in some supplies of black coffee for the next few weeks. What a pleasure it is to see the noble Lord, Lord Collins, in his place. I know he has not been well because I reached out to him and hoped to have met him before now to talk about the subjects he has spoken about with such passion today. I hope that we can have that discussion, and I am very pleased to see him here. I listened with great care to what he said.

I also listened with care to the noble Lord, Lord Moore of Etchingham—I have to call him my noble friend. I was fascinated by his Hastings connection. He might be interested to know that my grandmother's family came from generations of poor Hastings fishermen. Indeed, one of them was drowned off the Hastings coast—it was probably a good thing he did not have the noble Lord's forebear in the boat at the time. In 1846, my great-great-grandfather built a little fishing boat and called it "Free Trade". That was a good name then—it was an important year for free trade—and it is a good cause now. My goodness, we enjoyed the noble Lord's speech today.

This debate has felt at times a little like being in that stall on the beach and getting too close to Mr Punch, but none the less, I give considerable thanks to all those who have spoken. Important points have been raised. It is my duty to try to address the concerns raised, not only today but in Committee. I would, however, like to say again that a great deal of work has underpinned this Bill and the measures within it. I agree with the noble Baroness, Lady Fox, that we should be careful of language. We have heard of a likeness to Belarus, Russia and so on. I take and consider concerns, but I reject the characterisation of this Bill as seeking to suppress votes.

The Bill is inspired by fundamental principles that guide our democratic system, including that people should be encouraged to vote. I agree with the noble Lord, Lord Woolley, that those who are entitled to vote should always be able to exercise that right freely, securely and in an informed way, and that fraud, intimidation and interference have no place in our democracy.

We have to adjust and reform our system—this is more than consolidation; I will come to that in a minute, but consolidation is different from reform—but I cannot promise the noble Lord, Lord Desai, that we will reform it in the way he suggests. There might be difficulties with smartphone voting, for a start. Practically, we believe that the measures we have discussed here today constitute a series of practical improvements to the electoral system. We have worked closely with the electoral sector experts, the AEA, and the Electoral Commission to ensure that the provisions are designed properly. I remind noble Lords that the Electoral Commission is in support of voter identification.

The Minister responsible for the Bill, Kemi Badenoch, and her predecessor, Chloe Smith, took time to meet a wide range of organisations in the voluntary and community sector to inform policy decisions. These organisations have played a part in developing the details of secondary legislation and will continue to do so. I will come to the point made by the noble Baroness, Lady Barker, later in my remarks.

The noble Baroness, Lady Hayman, in what I thought was a very measured speech—I did not agree with it all but I am glad I had a bit of agreement from her on some parts of the Bill—asked about pre-legislative scrutiny, which has come up in the debate, and about post, a subject that I will come on to. The Government have always demonstrated a willingness to listen to and collaborate with stakeholders, but pre-legislative scrutiny is just one way in which the Government can take the views of Parliament as well as the electoral sector and other interested parties. The Elections Bill is a product of a wide range of views and engagement with the electoral sector, civil society, parliamentarians and the Parliamentary Parties Panel. Many elements have come directly from reports and reviews conducted by parliamentarians, such as the 2016 report on electoral fraud by my noble friend Lord Pickles. Four sets of measures in this legislation—namely, those on accessibility, overseas electors, intimidation and digital imprints—have also been directly the subject of government consultation. There are issues relating to accessibility that I will return to.

In addition to that, ahead of bringing forward the legislative proposals for voter identification, we undertook a range of voter pilots in 2018 and 2019 that were independently reviewed by the Electoral Commission. Furthermore, we proactively sought the input and expert eye of those with detailed knowledge of elections operation. I echo the tribute paid by my noble friend Lord Hayward to those who operate elections—people who will be impacted by the measures in the Bill. Since the announcement of the Bill, it has also received scrutiny from the Joint Committee on Human Rights and been debated in the other place, including four evidence sessions.

The noble Baroness, Lady Hayman, asked if I would give a statutory commitment to a post-legislative scrutiny requirement in the Bill. I am afraid I cannot go that far, but I will say that it is standard practice for the Government to conduct post-legislative scrutiny of Acts following Royal Assent. In this case it will be important to allow some time for elections actually to take place so that we can effectively review the impact of the legislation.

The Bill already makes provision to evaluate the impact of implementing voter identification following the first three sets of elections. The Electoral Commission already has a statutory duty, unchanged by the Bill, to undertake reports on the administration of each parliamentary election, so a specific statutory requirement risks not allowing for the necessary flexibility to report following elections as they happen. However, I undertake to the noble Baroness that we will enable the House to follow these developments carefully.

The noble Baroness asked, as did my noble friends Lord Hayward and Lord Hodgson and others, why we are not consolidating electoral law. This is a reform rather than a consolidation, but we remain committed to ensuring that electoral law is fit for purpose into the future. We acknowledge that the process of consolidation is a long-term project desired by many. It would take significant consideration and policy development, and the Government's immediate priority is to deliver this Bill. However, it is a request of which the Government are aware.

Many noble Lords queued up in the debate to say that the provision regarding voter identification was unnecessary. I guess the argument is that not many burglaries take place and have not happened recently in our road. No doubt those who have that view will not be putting locks on their back door. In saying that it is unnecessary, I thought the noble Baroness opposite also appeared to say that she did not think we had done anything about postal fraud. The reality is that the Bill contains many measures to stop the theft of—

Baroness Hayman of Ullock (Lab): In fact, it was meant to be the opposite.

Lord True (Con): Ah, then I misheard. None the less, on cue I can tell the House that we are banning party campaigners from handling postal votes altogether; we are stopping postal vote harvesting; we are extending secrecy provisions; and we are requiring those registered for a postal vote to reaffirm their identities by reapplying for a postal vote every three years. I think I heard a general welcome and support in the debate for those provisions, and I am grateful for that. That was stated by the noble Lord opposite in his wind-up.

The claim that voter identification is unnecessary was addressed by my noble friends Lord Pickles, Lord Hayward and Lady Pidding and the noble Earl, Lord Leicester, among others. It would be remiss if we did not take action in this respect—action recommended by the independent Electoral Commission. It is also backed by international election observers, who highlighted vulnerabilities in our system and repeatedly called for introducing voter identification, saying that its absence is a security risk. I find it strange that the internationalist party par excellence does not pay any attention to those recommendations.

Showing photo identification is a reasonable and proportionate way to confirm that a person is who they say they are and something that people from all walks of life already do every day. Cabinet Office research shows that 98% of electors already own a photographic document. Everyone eligible to vote will continue to have the opportunity to do so and be encouraged to do so, and any eligible voter who does not have one of the many accepted forms of photographic identification,

[LORD TRUE]
including lapsed identification, can apply for a free voter card from their local authority. Many members of the public have said in the pilots that they felt that the existence of voter identification increased their confidence in the security of voting.

I absolutely agree with my noble friend Lord Willetts, the noble Lord, Lord Janvrin, and others that we must encourage people and young people to vote. I have to say to the noble Baroness, Lady Chakrabarti, and the noble Lord, Lord Woolley, that we are not persuaded by automatic registration. No doubt, from hearing this debate, we will have the opportunity to discuss this in Committee. We think it contradicts the principle that individuals are properly responsible for registering themselves. That was one of the reasons we introduced individual electoral registration in 2014. The evidence shows that an individual system drives up registration and enhances the accuracy of the register. Online registration transforms the ease with which people can register to vote, and in March 2020, there were 47.6 million entries on the parliamentary registers in the UK—the highest number ever recorded. Instead of introducing a costly and potentially flawed system of automatic registration, the Government are committed to building on what we already have to make things better.

There was some criticism of the proposal to introduce first past the post to London mayoral and police commissioner elections. I will look carefully at *Hansard* but the noble Lord, Lord Kerslake, even seemed to challenge your Lordships to remove those provisions. I remind the House that these were manifesto commitments. The noble Lord, Lord Scriven, also said that there was no evidence of any problem. He said that we were accusing electors of not understanding what was going on. Let me give noble Lords some evidence. The Electoral Commission added that the rejection rate in May 2021 was 0.8% for local council elections; for police and crime commissioners, it was 2.7%; and it was 4.3% for the Mayor of London. In the 2021 London mayoral elections, conducted by supplementary vote, almost 5% of the total votes in the first round were rejected—114,000 ballots. In the second preference, 265,000 votes were invalidated. That is more votes than were validly transferred to the leading two candidates, Mr Khan and Mr Bailey. That is quite a significant problem, and I reject the view that there is no evidence for there being a problem.

The noble Baronesses, Lady Gale and Lady Humphreys, asked about Wales. As I said in my opening speech, I welcome the indication that the Welsh and Scottish Governments will consider legislating comparably across a number of areas. UK Government Ministers remain committed to working with our counterparts as they develop their own legislative proposals. On the strategy and policy statement, the Scottish and Welsh Governments have already recommended that the devolved Parliaments do not grant legislative consent to this measure. Therefore, we are preparing amendments, as I said at the outset, such that the statement must not contain provisions relating to the devolved functions of the commission.

The noble Lords, Lord Blunkett and Lord Thomas of Gresford—forgive me if there are others who I do not name; I have quite a lot to get through anyway—raised the important issue of assistance for blind and partially sighted voters. As noble Lords who are interested in the subject will know, the current difficulties arose partly because of the imperfections of the existing system that the noble Lord, Lord Thomas, spoke about, but there is also a court judgment that needs addressing.

The Government have had extensive engagement on this issue. I assure the House that we are ready to continue that. We are not removing the requirement to support blind and partially sighted voters; we are changing the way it is delivered to ensure that the needs of people with a wide range of disabilities are considered. Our approach will require returning officers to consider more varied and innovative support. That could be people using their own smartphones or devices in the polling station, or the use of a specific magnifier. There is not a one-size-fits-all approach. My colleagues in government and I look forward to further consultation and discussion on this very important subject.

Continuing on that, the noble Baroness, Lady Barker, raised engagement in relation to minority groups. My predecessor, Chloe Smith, conducted a series of round tables last summer with civil society groups, but I assure the noble Baroness that future engagement is also planned with groups that represent those with protected characteristics to work on supporting implementation planning and inform awareness-raising strategies. I will listen and ensure that my colleagues in government are aware of what the noble Baroness said.

There was a lot of discussion about overseas registration, not all of it favourable, although I was very moved by the speech of my noble friend Lord Lexden and his reference to Harry Shindler. The current position —that you are allowed to continue voting for 15 years —was established by the Labour Government in 2002, who determined that British citizens could continue to cast a vote. This did not seem such a shocking thing to the Labour Party then as it says it is now. I do not think that the principle it accepted then is invalidated by the removal of this limit. Why is it that 14 years and 364 days living abroad is fine, but at 15 years and one day Labour says, "We don't want to know about you. You have no rights"? We believe that the connection that people have with their old country—their home country—does not end overnight in that way.

A suggestion was made by the noble Lord, Lord Rennard, that the franchise change is to increase political donations to the Conservative Party. I expect to hear some rumbles opposite. The issues at stake in the Bill are matters of principle.

Noble Lords: Oh!

Lord True (Con): I knew they were coming.

There has been considerable demand for these reforms. Experts of all political stripes are keen to have their say on issues that affect them. The changes are about enfranchising British citizens and broadening their participation. Further evidence of the demand for votes is evidenced by the fact that, in recent years, many more overseas citizens have sought to exercise their voting rights under the current arrangements. In the 2015 general election, 110,000 British citizens living abroad were registered; for the 2019 election this had increased to

230,000. These electors come from all corners of the United Kingdom and are unlikely to share the same political persuasion.

Many noble Lords, starting with the noble and learned Lord, Lord Judge, in a typically notable speech, expressed concerns about Part 3 of the Bill. I have heard these concerns—although I have obviously been listening throughout the debate, I would have heard them even if I had just popped in. I hope to persuade noble Lords in Committee that those concerns are unfounded.

The Electoral Commission will remain operationally independent and governed by its Electoral Commissioners. As is the case now, the commission will remain accountable to Parliament, through the Speaker's Committee on the Electoral Commission, which is chaired impartially by the Speaker of the House of Commons.

The noble and learned Lord, Lord Judge, quoted part of the offending clause, and someone else who spoke—perhaps it was the noble and learned Lord, Lord Judge—said that there was no requirement for the Secretary of State to even consult the commission. In fact, new Section 4C(2), inserted by Clause 14, says:

> "The Secretary of State must consult the following on a draft of the statement … the Commission … the Speaker's Committee … the Public Administration and Constitutional Affairs Committee … the Scottish Ministers … and … Welsh Ministers".

He must reflect on those, and a proposal must be laid before Parliament, including your Lordships' House. If your Lordships' House or the other place have any doubts about it, it is within their power to refuse consent.

It has been suggested that the commission's requirement to have regard to this statement is exactly the same as the Government directing the commission. With respect, I completely disagree. The statement will not allow the Government to direct the commission's decision-making. The legal duty to have regard to this statement will not replace or undermine the commission's other statutory duties. However, we see it as vital that we have an operationally independent regulator which can command trust across the political spectrum. The proposed measures are a necessary and proportionate approach to facilitate parliamentary scrutiny while respecting the commission's operational independence. As I have explained, the Bill puts the UK Parliament at the centre of the processes relating to this statement, which will be subject to consultation at the relevant Select Committee.

The noble Lord, Lord Stunell, raised the CSPL recommendation to expand the commission's regulatory powers to include enforcement of civil sanctions for candidate offences. It is important to note the local nature of offences under the Representation of the People Act, which means it is sensible for responsibilities related to candidates to lie with returning officers, local authorities and the police. Where appropriate, these can be referred to prosecution services and resolved through the courts. The Electoral Commission, by comparison, deals with wider scale campaigns run by political parties and third-party campaigners.

On Part 4, on expenditure, many noble Lords agreed with aspects of these proposals. However, I have heard the concerns raised by my noble friend Lord Hodgson of Astley Abbotts and others. I can assure my noble friend that we will be ready to engage. Charities and third-party campaigners subject to the lower tier expenditure limits will be subject to lighter-touch regulation proportionate to smaller campaign spend. They will not be subject to spending return requirements and donation reporting controls. This will ensure minimal regulatory burden for campaigners in scope. That said, it is completely reasonable to expect organisations spending significant amounts of money campaigning in our elections to follow rules and report their activity, even where they are regulated for other purposes.

I speak with great respect for the old and humane tradition of the Labour Party as the champion of working people, and the noble Lord opposite, the noble Lord, Lord Monks, very understandably expressed concerns about what the impact on trade unions might be. The new measures will not prevent any eligible UK-based group, including trade unions, campaigning. The measures are simply intended to strengthen the principle of spending limits already in law and protect the level playing field by ensuring that groups cannot unfairly expand their spending limits where they are conducting joint campaigns.

My officials met Trades Union Congress representatives about the Bill, but I totally appreciate the concerns of noble Lords. My officials and I welcome further discussions with noble Lords and stakeholders. I hope to reassure them and to consider any concerns that they have. In those conversations, I will address the points that the noble Lord, Lord Collins, made. I am committed to ensuring that all campaigners are clear about the rules and able to participate in our elections, as they always have been.

Noble Lords will be pleased that Parts 5 and 6—they may have noticed that I got only to Part 4—were generally supported. I thank noble Lords throughout the House and on the Front Benches opposite for that, and hope that the support will be sustained throughout the Bill. On that happy note for me, I conclude by again thanking all Peers who took part in this debate for their valuable contributions. We will read *Hansard* carefully. I look forward to engaging with them further, over a late black coffee if need be, and in more detail in Committee and throughout the remainder of the passage of the Bill.

Bill read a second time and committed to a Committee of the Whole House.

Elections Bill

Order of Consideration Motion

10.12 pm

Moved by ***Lord True***

That it be an instruction to the Committee of the Whole House to which the Elections Bill has been committed that they consider the bill in the following order:

Clauses 14 to 27, Clause 1, Schedule 1, Clause 2, Schedule 2, Clause 3, Schedule 3, Clauses 4 to 6, Schedule 4, Clauses 7 and 8, Schedule 5, Clauses 9 and 10, Schedule 6, Clauses 11 and 12, Schedule 7, Clause 13, Schedule 8, Clause 28, Schedule 9,

[LORD TRUE]

Clauses 29 to 36, Schedule 10, Clauses 37 to 46, Schedule 11, Clauses 47 to 51, Schedule 12, Clauses 52 to 65, Title.

Motion agreed.

Passenger, Crew and Service Information (Civil Penalties) (Amendment) Regulations 2022

Motion to Approve

10.13 pm

Moved by ***Baroness Williams of Trafford***

That the draft Regulations laid before the House on 6 January be approved.

Relevant document: 26th Report from the Secondary Legislation Scrutiny Committee

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, the purpose of these regulations is to make two amendments to the Passenger, Crew and Service Information (Civil Penalties) Regulations 2015. First, they delete a sunset clause which would otherwise mean that the 2015 regulations would cease to have effect from 31 March. Secondly, they extend the scope of the 2015 regulations to include Channel Tunnel rail operators, to bring parity in the application of the civil penalty regime to all carriers operating scheduled international routes whether by air, by sea or by rail through the Channel Tunnel.

All carriers operating scheduled services to and from the UK are required to provide complete, accurate and timely passenger, crew and service information to the Home Office. These requirements are made in accordance with paragraphs 27 and 27B of Schedule 2 to the Immigration Act 1971. The same requirements may be made by a constable under Section 32 of the Immigration, Asylum and Nationality Act 2006. This information, known as advance passenger information and passenger name record data, is a key component of the United Kingdom's border security arrangements.

Processing of this information enables Border Force and police to carry out border control checks before individuals depart from the UK, before individuals are able to depart to the UK and before they arrive in the UK. This means that people wanted by police can be apprehended before leaving the UK, while individuals who pose a security or other threat to the UK may be prevented from travelling here, through the authority to carry or "no fly" scheme, or can be detected on arrival in the UK. The same capability enables the effective targeting of individuals carrying illegal drugs and criminal cash and the disruption of organised immigration crime using scheduled flights.

The effectiveness with which these activities can be undertaken relies on carriers, whether airlines, ferry operators or train operators, complying with requirements to provide passenger, crew and service information. Incomplete, inaccurate or late information can undermine the effectiveness of our border arrangements. The 2015 regulations introduced a civil penalty regime whereby the Secretary of State may require a carrier to pay a penalty if the carrier fails to comply with these requirements. The maximum penalty is £10,000 for each breach.

Before the introduction of the civil penalty regime in 2015 there was only a criminal offence, under Section 27 of the Immigration Act 1971, with a maximum penalty of six months' imprisonment. That criminal penalty remains in place, as it should for the most serious cases of non-compliance. The civil penalty regime was introduced due to the challenge of successfully prosecuting overseas operators, particularly for failing to comply with a requirement to provide passenger, crew or service information where that information was being provided from the operators' systems overseas. In practice, the approach to civil penalties has been, and continues to be, one of collaborative engagement with carriers to address any non-compliance issues and to achieve and maintain their compliance. This has proven extremely successful.

To date, no carrier has needed to be given a penalty notice under the 2015 regulations. There have been several instances where the civil penalty regime has been invoked, formal enforcement action for non-compliance has been initiated and formal notices of potential liability to substantial financial penalties have been given but, so far, in all cases, this has been sufficient to secure carriers' compliance, meaning penalties have not been required.

Removing the sunset clause will also preserve the deterrent effect of the civil penalty regime which, alongside the passenger, crew and service information requirements, is an important and permanent element of the UK's border security arrangements. Requirements relating to passenger, crew and service information have been in place since the 1970s, but what began as a paper-based process to help with the examination of arriving passengers is now a real-time data-driven process resulting in immediate decisions to refuse airlines authority to carry certain individuals to the UK or to identify individuals of interest, including those bringing in illegal drugs or taking out criminal cash.

I anticipate that some noble Lords may question the removal of the sunset clause and ask why it could not be extended for another seven years. Equally, some may question the need for a civil penalty regime at all. To both, I say that, to the extent that the sunset clause placed the regulations on probation, they have actually passed. They have demonstrated their deterrent effect and are now an established part of our border security arrangements.

I turn briefly to the other amendment that the Government seek to make through these regulations. Passenger, crew and service information requirements are now imposed on Channel Tunnel rail operators. This was not the case in 2015 and, for that reason, they were not included in the scope of the 2015 regulations. Extending the civil penalty regime to Channel Tunnel rail operators ensures parity in the application of both criminal and civil penalties to all carriers operating scheduled international routes that are required to provide passenger, crew and service information. It is essential that we maintain the civil penalty regime, and these regulations do that for the long term. They maintain the necessary deterrent to help ensure that

operators continue to meet their obligations to provide complete, accurate and timely information about individuals intending to travel to and from the UK, the processing of which is a key component of our border security arrangements. I beg to move.

Amendment to the Motion
Moved by ***Lord Berkeley***

At the end insert "but that this House regrets that they remove the sunset clause from the 2015 Regulations, and therefore make permanent the civil penalties of £10,000 per offence for rail, air and ferry companies that fail to send accurate and timely information on passengers, crew and services to the Home Office before their arrival or departure from the United Kingdom; and believes that compliance can be achieved without the need for this penalty".

Lord Berkeley (Lab): My Lords, I am very grateful to the Minister for her comprehensive introduction to the regulation. My amendment would disapply the sunset clause, and I shall briefly explain why. If the provision has been successful—and I accept that it has—why do we need to keep it anymore?

I spent a lot of time building the Channel Tunnel, 30 or 40 years ago. We have had problems on trucks, trains, coaches, ferries and air—and with people getting into small boats, as we all know—and there has been a trend. As soon as life gets too hard for people smuggling in one mode, they go to another. If it has settled down now, it is time to consider whether it is appropriate for the long-term future for these operators to continue to act basically as immigration officers on behalf of the Government. They are commercial operators—ferries, airlines and train operators, passenger and freight—and it costs them money. I am pleased that nobody has faced serious fines yet, but it could happen. I have no objection at all to including the Channel Tunnel services; that is a good idea, but it needs to be fair and proportionate.

I have a couple of questions for the Minister. The word "scheduled" services is used several times in the Explanatory Memorandum and was used in her speech. To me, trucks going across the channel are not scheduled: they go when they feel like going. If a truck is caught smuggling people, and it just happens to be on the next ferry that goes, that is hardly a scheduled service, and ditto with rail freight, which does not go on a particular schedule. I just wonder why the word "scheduled" is used and why this does not cover non-scheduled services. My second question is on transport to and from the Republic of Ireland, which is of course in the European Union. Do the regulations apply there by road, rail and, presumably, sea? Perhaps she could respond on that one.

My main reason for raising the issue today is that I have come across a European Commission draft regulation, COM (2021) 753 final, which is trying to impose similar controls on the borders of the European Union and, equally, within its internal frontiers. I do not know whether the Minister and her colleagues have talked to anyone in the Commission about this. It is still in draft form—it is open for consultation—but it applies to all transport operators, so it covers much the same ground as this regulation.

It basically means that if these transport operators are carrying somebody defined as having entered the European Union illegally, and if the transport operator facilitates this movement across anywhere within Europe, the Commission can take action against the transport operator. This can include—this is key—removal of the right to provide transport services anywhere in the EU. That could cause British Airways, if it happened to be accused and found guilty of carrying one illegal immigrant from Berlin to London, to lose its licence to operate anywhere in the EU. It could apply to trains, coach services or anyone operating services not just on external frontiers such as Spain, Italy or Greece, but between France and Belgium, for example, if it is a British carrier. I do not know whether the European Commission has tried to learn from the British regulations over the years and tried to make them a bit more stringent, but this could mean that if an operator—for example, P&O Ferries or Ryanair—transported an illegal immigrant, as they might be called, from the European Union to the UK, it would suffer twice. It could be fined £10,000 per offence and lose its licence to operate.

Is the Minister aware of this? Whether she is or not, I hope the British Government will have discussions with the European Union to come up with some common policy on dealing with people who are either being smuggled or want to move between the UK and the European Union for whatever reason—that includes Ireland. I hope they could persuade the European Commission that this is not a particularly good idea. I do not think it has got to the European Parliament yet, which is probably a good thing; I do not know what it will say.

This indicates that there are two different means of dealing with the problem of people wishing to come into or leave this country when the Government do not want them for whatever reason. It is really important that there is some commonality of policy, otherwise we are all going to look pretty stupid. I hope I have got it wrong and this does not happen, but this is an opportunity to debate the whole thing and it would be much better if the immigration department looked after immigration and the transport operators were allowed to get on with their jobs, which they are very good at. I beg to move.

Baroness Randerson (LD): My Lords, I thank the Minister for her explanation. As she said, this SI does two main things. First, it removes the sunset clause in the original 2015 regulations and, secondly, it extends the provisions to the Channel Tunnel. The 2015 regulations were welcome because they introduced civil penalties that effectively encouraged transport operators to take regular and systematic steps to keep accurate records to check passengers against names and so on.

10.30 pm

These are things we take for granted as part of security nowadays, and I do not share the concerns of the noble Lord, Lord Berkeley, about the cost to the business. This is routine now, and the costs have been built into the price we, as passengers, pay for travelling by these various means.

[Baroness Randerson]

Previously, it was hardly appropriate for there to be criminal penalties for inefficiency; criminal penalties for deliberate deception are another issue. The 2015 regulations usefully filled that gap.

I also do not share the concerns of the noble Lord, Lord Berkeley, about the £10,000 maximum penalty, which, as the Minister pointed out, has never been levied. A sum of £10,000 is hardly draconian when you are operating kit worth millions of pounds.

I am not, this evening, going to enter into discussion on the general principles of this Government's policies on immigration control. I will confine myself to this specific measure, on which I have some questions.

First, the Minister addressed the removal of the sunset clause in her introductory comments. The Secondary Legislation Scrutiny Committee had comments and pointed out that the sunset clauses have a useful role in ensuring that legislation is regularly reviewed for its continued appropriateness. Now that the sunset clause is to be removed, what plans do the Government have to monitor this legislation and ensure that it is still fit for purpose?

Secondly, it is logical the Channel Tunnel is included, and I am above all interested in why it was omitted originally. Can the Minister explain why it was not included previously? I am sure everyone will be interested. Importantly, what discussions have the Government had with Eurostar, the shuttle operator and freight operators, because this has an additional impact on their business?

I am a regular Eurostar passenger, and an occasional user of the shuttle. Apart from the environmental benefits of train over plane, one of the great attractions of Eurostar has been the swift process for checking passengers in. That used to apply to the shuttle as well. From my experience last week and the last couple of times I have used Eurostar, I can say that that benefit is already seriously eroded by the additional requirements of Brexit. Last week I was in a queue of well over an hour to get through passport control at St Pancras.

On this SI and extra checks proposed, paragraph 7.1 of the Explanatory Memorandum says:

"This information allows Border Force and police to carry out checks before departure from the UK for appropriate law enforcement action and before departure to or arrival in the UK which is essential for border security."

Therefore, my questions to the Minister are as follows. Can she explain exactly how those extra checks are going to be operated? Can she assure us that this will not lead to even greater delays than currently? How many staff are going to be devoted to checking a Eurostar train, for example? On what scale is the additional staffing being provided? We cannot implement procedures which make the UK even less welcome to tourists than it has already become as a result of Brexit. The delays at passport control are now becoming part of the regular folklore within the EU, and that is doing our reputation as a nation great harm.

My final question concerns paragraph 7.3 of the Explanatory Memorandum, which says that no fixed penalty notices have been issued but that warning notices have been issued instead. Just so that we can get a feel for this, I ask how often these warning notices are issued. I would be very interested to hear the Minister's comments.

Lord Ponsonby of Shulbrede (Lab): My Lords, the Labour Party supported the original regulations, which introduced the civil penalty. They are proportionate, reasonable and in the national interest. We support those existing regulations remaining in place and we will not be opposing them this evening. We welcome that the penalty has not been enforced in any case so far, which the Minister confirmed in her introduction. But I repeat the question asked by the noble Baroness, Lady Randerson: it would be interesting to know how many warning notices had been issued, although the Minister made it clear that there was 100% compliance once companies had received the warning notice.

The Minister in the House of Commons said:

"In practice, the approach to civil penalties has been, and continues to be, one of collaborative engagement."—[*Official Report*, Commons, Delegated Legislation Committee, 2/2/22; col. 4.]

I would be interested to hear from our Minister what that means in practice and whether that collaborative engagement is ongoing.

The Minister has already answered my next question, in a sense. I was going to ask whether the Government had considered extending the sunset clause for another seven years. She used the expression that the sunset clause had placed the regulations "on probation" and that they seemed to have passed that probation period. I think that is a reasonable answer to the question that I was going to ask.

How do the Government propose the ongoing review of these measures to make sure that they stay relevant? Will there be regular reviews, for example?

A further question partly arises out of my noble friend's amendment. He outlined the concerns from the EU that he has come across and raised a number of questions, which I wrote down and I am sure the Minister did as well. I will be interested in her response to those. The main thrust of them was wondering whether there would be a commonality of policy between the EU and the UK Government so that there is not double punishment for potential corporate transgressors, and a commonality of approach would surely be beneficial for the operators themselves.

A further question, which again the noble Baroness, Lady Randerson, has raised, was a concern that any extra checks that may be put in place should not lead to greater delays. We heard about the noble Baroness's experience last week. I do not know whether they were seen as a temporary measure because of the current situation, and those delays should be expected to disappear in the coming months.

In conclusion, as I have said, we welcome the removal of this sunset clause. We think the measures have passed their probation period. I think my noble friend has raised some interesting questions with his amendment, and I look forward to the noble Baroness's response.

Baroness Williams of Trafford (Con): I thank noble Lords for their questions. I have written them down and will try to answer them in no particular order. I start mainly by addressing the question from the noble

Lord, Lord Berkeley, about immigration officers being immigration officers and transport operators being transport operators. No operator is required to take any immigration decisions. The information is to enable Border Force to take better immigration decisions. On the European Commission proposal, these are not passengers that the carrier would actually know about, so the regulations have no bearing on that issue. In terms of Ireland, there is no application to land transport by road or rail. In terms of what we mean by schedule, schedule is the service that the truck travels on and not the truck itself.

Getting on to questions from other noble Lords. First, I was asked why the sunset clause is being removed. It was standard practice at the time that a sunset clause was added to the Passenger, Crew and Service Information (Civil Penalties) Regulations 2015. That sunset is on 31 March, and needs to be addressed to ensure that regulations do not cease to have effect. Noble Lords will remember that that was the sort of bonfire of regulations time. I think now is the time when we can say that this system is working, and I will go through why. The approach has been taken to remove the sunset clause. It will preserve that deterrent effect that I talked about earlier of the civil penalty regime which, alongside the passenger, crew and service information requirements, is now a permanent and ongoing element of the UK's border security arrangements and has been for a considerable time.

The noble Baroness, Lady Randerson, and the noble Lord, Lord Ponsonby, asked about the legislation and its effectiveness. It will be subject to ongoing review to ensure its continued utility. The noble Baroness, Lady Randerson, and, I think, the noble Lord, Lord Ponsonby, as well, asked why the Channel Tunnel was not included back in 2015. I think that was because the emphasis was on the operation of juxtaposed controls. Those controls are maintained, but advanced information enables better targeting of those individuals requiring close examination.

On delays, the noble Baroness, Lady Randerson, talked about how in practice this is preparing the way to progress towards the operation of more effective controls, on the basis of knowing in advance who is travelling. It will support the operation of the Government's future border and universal permission to travel plan.

The noble Lord, Lord Ponsonby, asked about the civil penalty regime. Border Force takes a collaborative approach to engagement with carriers to secure their compliance with requirements to supply passenger, crew and service information. To address non-compliance, the imposition of civil penalties is very much a last resort. The threat of financial penalties through the service of notice of potential liability has had the quite dramatic effect of addressing and resolving instances and issues of non-compliance.

10.45 pm

Clear guidance has been drafted and is used by Border Force's carrier engagement and data acquisition team when engaging with carriers on issues of non-compliance. Civil penalty guidance has been drafted for rail operators and will be shared with them when the statutory instrument enters into force. The carrier is invited to give an account of what happened and why the breach occurred and to offer any mitigating circumstances. Their representations would be considered, and a suitable level of penalty would be determined based on the civil penalty calculator which is in the guidance. The penalty is up to £10,000 in respect of each flight, voyage or service where the carrier is non-compliant. As I said earlier—the noble Lord, Lord Ponsonby, and the noble Baroness, Lady Randerson, asked about this—no carrier has been given that penalty notice. There have been fewer than 10 instances where formal enforcement action for non-compliance has been initiated and carriers have been served with notices of potential liability, which is one step short of the penalty notice. In all cases so far, this has been sufficient to secure carrier compliance, meaning that penalties have not been required. Collaborative engagement with carriers has addressed non-compliance and secured and maintained compliance. I hope that that is a satisfactory answer to the question asked by the noble Lord, Lord Ponsonby, about what collaboration looks like.

On the application of the financial penalty, I understand that the idea of imposing civil penalties on carriers might be of concern—the noble Lord, Lord Berkeley, was concerned about that—particularly at a time when carriers are struggling financially. While the regulations set out that a financial penalty of up to £10,000 may be applied, as I have outlined, that collaboration has to date meant that none has been imposed.

I hope that I have answered all the questions—

Lord Berkeley (Lab): I am grateful to the Minister for her comprehensive response, but I did not quite understand what she said about the European Union and not applying to people. From my reading of the regulation—it is definitely a draft regulation— it does apply when carriers take people across frontiers. My worry is that, rather than carriers being subjected to the civil penalty regime as we have been discussing to and from the UK, they could have something that is more draconian, such as the removal of their licence to operate at all. If the Minister has not had discussions with the European Commission already, could she and her officials do so and try to make sure that we will not suffer unduly from what it might propose?

Baroness Williams of Trafford (Con): I was under the impression that the noble Lord was talking about clandestine arrivals. They would not be classified as passengers. That is why I said that, if they are clandestine, the carrier would not know about them. I am thinking of the people who have clandestinely arrived through the Channel Tunnel and by other methods.

Lord Berkeley (Lab): The definition that the Commission puts in its regulation will need studying. Those arrivals may be clandestine, or they may be something else. It may be just its attempt to deal with what it sees as a clandestine invasion from outside Europe —I do not know—but I am worried that if there are people who are seen to be illegally in one country for whatever reason and trying to get into another, the carriers will get caught by it.

Baroness Williams of Trafford (Con): I do not think they will be, because these are not passengers; they are people who have clandestinely arrived and therefore are under the radar. However, I will study carefully what the noble Lord has said, particularly in regard to the regulation.

Lord Berkeley (Lab): I beg leave to withdraw the amendment.

Amendment to the Motion withdrawn.

Motion agreed.

Charities Bill [HL]

Returned from the Commons

The Bill was returned from the Commons agreed to.

Public Service Pensions and Judicial Offices Bill [HL]

Returned from the Commons

The Bill was returned from the Commons agreed to with amendments. It was ordered that the Commons amendments be printed.

House adjourned at 10.50 pm.

Grand Committee

Wednesday 23 February 2022

Arrangement of Business

Announcement

4.23 pm

The Deputy Chairman of Committees (Lord Geddes) (Con): My Lords, I think most Members of the Committee will be bored by this start, but I am obliged to say it. Members are encouraged to leave some distance between themselves and others and to wear a face covering when not speaking. If there is a Division in the Chamber while we are sitting, this Committee will adjourn as soon as the Division Bells are rung and resume after 10 minutes.

Tax Credits, Child Benefit and Guardian's Allowance Up-rating Regulations 2022

Considered in Grand Committee

4.23 pm

Moved by ***Baroness Penn***

That the Grand Committee do consider the Tax Credits, Child Benefit and Guardian's Allowance Up-rating Regulations 2022.

Baroness Penn (Con): My Lords, I turn first to the Social Security (Contributions) (Rates, Limits and Thresholds Amendments and National Insurance Funds Payments) Regulations 2022. These regulations set the national insurance contributions limits and thresholds, as well as the rates of a number of national insurance contributions, for the 2022-23 tax year and make provision for a Treasury grant to be paid into the National Insurance Fund if required.

National insurance contributions, or NICs, are social security contributions, as I am sure all noble Lords will know. They allow people to make contributions when they are in work in order to receive additional contributory benefits when they are not working, for example when they have retired or if they become unemployed. NICs receipts go towards funding these contributory benefits, as well as the NHS. As announced in the Budget, the Government are using the September consumer prices index figure of 3.1% as the basis for setting all national insurance limits and thresholds, and the rates of class 2 and class 3 national insurance contributions, for 2022-23.

I will first outline the specific changes to the class 1 primary threshold and the class 4 lower profits limit. The primary threshold and the lower profits limit indicate the points at which employees and the self-employed start paying class 1 and class 4 NICs, respectively. These thresholds will rise from £9,568 to £9,880 per year. The rates of class 1 and class 4 NICs have already been increased to 13.25% and 10.25%, respectively, through the Health and Social Care Levy Act. Increases to the primary threshold and lower profits limit do not impact on state pension eligibility. This is determined by the lower earnings limit for employees—which will increase in line with the CPI from £6,240 in 2021-22 to £6,396 in 2022-23—and payment of class 2 NICs for the self-employed, which I will come to shortly.

The upper earnings limit, the point at which the main rate of employee NICs drops to 3.25%, is aligned with the higher rate threshold for income tax. It was announced in the Spring Budget 2021 that the income tax higher rate threshold and the UEL will remain frozen at £50,270 until 2025-26. Similarly, the upper profits limit is the point at which the main rate of class 4 NICs drops to 3.25%. This will also remain at £50,270 per year.

As well as class 4 NICs, the self-employed pay class 2 NICs. The rate of class 2 NICs will increase from £3.05 in 2021-22 to £3.15 in 2022-23. The small profits threshold is the point above which the self-employed must pay class 2 NICs. This will increase from £6,515 in 2021-22 to £6,725 in 2022-23. Class 3 NICs allow people to voluntarily top up their national insurance record. The rate for class 3 will increase in line with inflation from £15.40 in 2021-22 to £15.85 a week in 2022-23.

The secondary threshold is the point at which employers start paying employer NICs on their employees' salaries. This threshold will increase from £8,840 in 2021-22 to £9,100 in 2022-23. The threshold at which employers of people under 21 and apprentices under 25 start to pay employer NICs on those employees' salaries will remain frozen at £50,270 per year to maintain alignment with the upper earnings limit.

The regulations also make provision for a Treasury grant of up to 17% of forecasted annual benefit expenditure to be paid into the National Insurance Fund, if needed, during 2022-23. A similar provision will be made in respect of the Northern Ireland National Insurance Fund. The Government Actuary's Department report laid alongside the re-rating regulations forecast that a Treasury grant will not be required in 2022-23. However, in view of the economic challenges created by the Covid-19 pandemic, the Government consider it prudent to maintain the maximum provision at this stage.

I turn to the Tax Credits, Child Benefit and Guardian's Allowance Up-rating Regulations 2022. As noble Lords will know, the Government are committed to delivering a welfare system that is fair for claimants and taxpayers while providing a strong safety net for those who need it most. These regulations will ensure that tax credits, child benefit and the guardian's allowance increase in line with the consumer prices index, which had inflation at 3.1% in the year to September 2021.

In summary, this proposed legislation makes changes to the rates, limits and thresholds for national insurance contributions and provision for a Treasury grant, and increases the rates of tax credits and guardian's allowance in line with prices. I hope noble Lords will join me in supporting these regulations. I beg to move.

4.30 pm

Lord Davies of Brixton (Lab): My Lords, I thank the Minister for her clear introduction of the measures in these regulations. I intend to speak solely to the Social Security (Contributions) (Rates, Limits and Thresholds Amendments and National Insurance Funds

[Lord Davies of Brixton]
Payments) Regulations 2022. What really interests me about these regulations is that they come with the report from the Government Actuary which we should have had when we discussed the Government's Bill to drop the triple lock. It would have been so much more informative to have those discussions with the figures before us, rather than discussing them in the abstract. This might be a minority taste, but I am particularly looking forward to later in the year when we will have the quinquennial review of the National Insurance Fund.

What disappoints me is that, in accordance with the regulations, these reports are laid before the House, which provides only limited scrutiny. I could ask questions now, but, with all due respect to the Minister, it would be unfair to ask her to answer detailed questions. It would be useful in some way to provide a forum where we could have a more detailed discussion of what is in the Government Actuary's report. I do not know whether this has been the practice of the House, but speaking for myself, I could enter into a very detailed discussion about the Government Actuary's report and what it tells us about the financing of the national insurance scheme.

Chart 1.2 on page 8 of the Government Actuary's report shows how the balance in the fund is going to increase. It is projected to increase year by year over the next six years by amounts varying between £2.1 billion and £10 billion. These are massive sums being paid into the National Insurance Fund. At least it raises the issue of the use of that fund in order to provide benefits to which people have contributed.

According to the draft timetable, we will get the social security uprating order before us on 9 March. Since we now have available the Government Actuary's report, it would be helpful to have the opportunity to ask more detailed questions about the relationship between the increases in the order and the information presented to us by the Government Actuary.

I will highlight just one aspect, and this is truly a Treasury point rather than a Department of Work and Pensions point. It is a bit odd, because the regulations are really more of a social benefit issue than a Treasury issue. I am not complaining about that, but the oddity is that the Government Actuary's report reveals to us that, because the upper earnings limit has been frozen to keep it in line with the upper-rate tax threshold, the take of national insurance contributions is actually going to decline at a greater rate because everyone's earnings are increasing. This is actually a regressive move. The freezing of the upper-earnings threshold for income tax purposes is a progressive move. It makes higher earners pay that little bit more, but the freezing of it for national insurance purposes is actually a regressive move, because it puts proportionately more of the burden of paying those contributions on lower earners.

I am sure that is not a specific government objective, but it is an oddity of the way the system is being operated. It reflects the fact that higher earners do not pay national insurance contributions. Maybe they could pay a bit more in order to support the taxation system. The fact that they stop paying most national insurance contributions at the upper earnings threshold is perhaps something we should bear in mind in the thorough rejigging of the tax system that I would favour.

With those few remarks, I support these regulations.

Baroness Kramer (LD): My Lords, I will start by addressing the social security regulations. Struggling through the alphabet soup that characterises these SIs brought home to me how hard hit so many low-wage people will be by the Government's additional national insurance contributions levies. With inflation running at 7%—now some are expecting 8%—energy prices up by as much as £700 a year and most wages barely rising, this is not the time to hit low-income people with a 1.25% increase in NICs.

Using NICs rather than income tax to raise government revenue was always cruel because it drags in workers on wages below the income tax threshold and excludes a raft of high-income people. But the SIs reveal further subtle changes which I had not appreciated. The Government have been clear that income tax thresholds will be frozen to drag more low earners into income tax and more modest earners into higher-rate tax. But I—and, I suspect, others—did not anticipate a read-across into national insurance contributions. The upper earnings limit, the upper secondary threshold, the apprentice upper secondary threshold and the upper profits limit are all frozen, if I understand the SIs correctly, instead of increasing with CPI. They will pull more people into higher NICs payments, including many young people and apprentices. I would like to hear from the Minister how many people are impacted by the decision not to increase these thresholds by CPI and how much additional money is being raised by the Treasury as a consequence.

On the other side of the coin, CPI is being used to raise the lower earnings limit above which an earner gains access to certain state benefits; in other words, it will reduce the number of people eligible. What will the impact be on benefit recipients, how many will lose benefits, and how many will get reduced benefits and by how much? Why was there no consultation on issues that, frankly, are so significant? These are presented to us as though they are "routine changes" but they are not routine changes to people's lives, as the Explanatory Memorandum tries to claim.

We then come to changes in the state pension. Pensioners are now being driven into poverty, certainly fuel poverty. How can the Government justify excluding the earnings component from the triple-lock calculation, and increasing pensions by only 3.1%, particularly with inflation galloping away? As I say, it is now expected to hit something between 7% and 8% over the year. I suppose that if next year inflation continues to be high, the Government will exclude CPI from their calculation, arguing that this year set a precedent for manipulating the formula while paying it lip service.

I notice that the notes suggest that raising the state pension by 8.3% this year, which would happen if it was based on average earnings, would increase the pension base and, over time, compromise the National Insurance Fund. If one is concerned about the health of the fund, why are the Government deliberately depleting it by offering employers NICs at zero rate in freeports? I think I have described this before as a

fundamental problem. Freeports attract money laundering and other forms of crime because of their lack of transparency and now there is the possibility of an attractive tax package as a further incentive and, indeed, a depletion of the National Insurance Fund as a consequence, which presumably justifies many of the increases that we have seen in these SIs. Will the Minister finally tell us the cost of that giveaway of national insurance contributions at zero rate in freeports? I have been struggling to find the number; it may well be available, but I have struggled to find it.

My last comment is on the other statutory instrument, the tax credits SI, which raises by CPI the annual rates of working tax credit and child tax credit, and weekly rates of child benefit and guardian's allowance. Although this meets the formula, today's experience for people on low incomes is one of very high inflation, especially on the basics of life, including heat and food. Many would say that we are facing a crisis now, but that the economic pressures on families will get far more acute as the year moves on.

I have here a very brief note from the Child Poverty Action Group. It points out that

"benefits are due to increase by 3.1%, just as inflation is predicted to peak at 7.25%."

I think that may be understated; people are now talking about a higher rate of inflation. The note continues:

"Energy bills are due to increase by 54% in April, and these families are set to spend three times the share of their income on energy, compared to better-off families … The council tax rebate scheme will mitigate around 40% of that cost through spring and summer, leaving families in poverty to cover around £35 in additional energy bill each month."

I come from a part of London where house prices are extremely high, and many fundamental homes are above band D, but the people living in them are on very low incomes. They, of course, will get none of that council tax rebate benefit. The note goes on to say that

"180,000 families subject to the benefit cap will see no increase in their benefits come April. The cap hasn't increased since 2016, while the cost of living has increased by around 16% in that time."

Are the Government prepared to rethink? This is an exceptional year of inflation, so choosing the figure of 3.1% has a great artificiality to it; it would not in most years, but it does in this one. Will they simply restore the weekly £20 uplift in universal credit, which would make a substantial difference to the families who will be hit? Will they reconsider the national insurance contribution increases and shift instead to a money-raising mechanism that looks at income tax and higher earners? Will they unfreeze the tax thresholds, which is a way of increasing income tax without obviously saying that one is going to do it? Frankly, one way to pay for all of this would be a windfall tax on the fossil fuel companies whose profits have soared because of world conditions, not because of their own efforts.

I am not going to oppose this SI, but I hope that the Government will not be complacent and think that the changes have gone through with their consequences unrecognised.

Lord Tunnicliffe (Lab): My Lords, I am grateful to the Minister for introducing these two measures. As she outlined, the first instrument increases the primary threshold above which people start to pay national insurance. It also freezes the upper earnings limit to ensure consistency with the equivalent limit for income tax. The lower threshold is being lifted by the level of CPI inflation in September last year; that is, 3.1%. We welcome any help for low-paid workers, given the enormous pressures on household budgets at the current time. The second instrument provides for a 3.1% uplift in the annual rates of working tax credit, child tax credit, child benefit and guardian's allowance. We support these increases.

Of course, when it comes to inflation, the picture has changed quite significantly since September 2021. CPI is currently running at 5.1% and economists fear it could exceed 7%. We must also consider these changes against the backdrop of the withdrawal of the £20 universal credit uplift. Yes, the Government have amended the taper rate for some claimants, but many others gain very little or nothing at all. Finally, the 1.25% increase in national insurance contributions for 2022-23 and the longer-term introduction of the health and social care levy will be an additional hit to household finances.

4.45 pm

The months ahead are likely to be extraordinarily tough for low earners and the unemployed. Contrary to media characterisations, they do not live a life of luxury. They have been making very tough choices in recent times and will face even harder decisions as the cost of living crisis ratchets up. According to the most recent CBI survey of manufacturers, close to four-fifths believe that prices will need to rise in the coming months. Such figures have not been seen since the oil shock of the 1970s.

Campaigner Jack Monroe has recently highlighted the scale of food price inflation as well as the poor availability of value range products in some supermarkets. Her work has led to the Office for National Statistics agreeing to publish a wider variety of cost of living metrics. I hope the Government will ensure that their policies take these new statistics into account.

Millions are living in poverty in this country. The number of children growing up in poverty is already too high, but we are likely to see it skyrocket in the next year. That should shame us all.

I do not say these things to score political points; the subject matter is far too serious for that. I know that the Minister takes these matters very seriously and I hope the same is true for her colleagues in the department. As I said in relation to energy prices yesterday, we have a month until the Chancellor makes his Spring Statement. Given the difficulties that so many face, that occasion needs to offer real support to those who are most in need—not just vague promises of a brighter future. However, on the question before us today, we fully support the safe passage of these regulations.

Baroness Penn (Con): My Lords, I thank all noble Lords for their contributions to this debate, which was short but thoughtful. The noble Lord, Lord Tunnicliffe, is correct that the matters we are debating today are of real relevance to people's lives and will be in the coming months as we see inflation far above the target set, which will have an impact on households' budgets.

[Baroness Penn]
That is why the Government are putting in place significant support to help them with that—I will turn to that briefly later.

To start with the point from the noble Lord, Lord Davies of Brixton, about the Government Actuary's Department report and its interesting contents, I may not have all the answers to his detailed questions to hand for this debate, but I will happily write to him if I cannot provide them in this debate. Obviously, we have many different forums in this House where we can discuss those reports and he is welcome to submit Written or Oral Questions or apply for debates so that we can explore those in more detail.

The noble Lord, Lord Davies of Brixton, and the noble Baroness, Lady Kramer, raised the freezing of the upper earnings limit and other limits; we keep those limits aligned. We have touched on the complexity of our system at various points in these debates, but it is important to consider the overall picture of these tax changes. If we consider the impact of NICs and income tax together, the upper earnings limit is aligned to the point at which income tax increases from 20% to 40%. When this is combined with the NICs rates, individuals pay a rate of 32% on earnings below the upper earnings limit and 42% above the upper earnings limit. That is a progressive system to ensure that higher earners pay more.

On the noble Baroness's point about the health and social care levy, I remember the time when the Lib Dem policy was a penny on national insurance to pay for the NHS. Well, this is 1.25p on national insurance to pay for the NHS. This is the right decision to make. We have supported the NHS through the pandemic, but we have come out of it facing a huge amount of work that needs to be caught up on in terms of elective procedures. We have also made a significant commitment to addressing social care needs in this country. These are significant increases in permanent spending on the NHS and social care, and they need to be funded; a national insurance increase that will turn into the health and social care levy is a progressive way in which to do this.

The noble Baroness may have preferred us to do that through income tax, but also calls for us not to freeze the income tax threshold over the coming years. Again, I contend that that is not something we are doing via a stealth tax. We have been perfectly up-front about some of the really difficult decisions we have had to make on tax to pay for the support we have provided to people during the pandemic. We expect everyone to contribute in a progressive way, which is why we have frozen the thresholds for income tax and other taxes. It is also why we have increased corporation tax so that businesses, which have also received a huge amount of support during the pandemic, make their contribution to repairing our public finances.

As I say, these are difficult decisions that affect households and families. We have tried to take them in a progressive way, and they are being done to pay for the significant support that the Government have been able to provide.

Baroness Kramer (LD): Can the Minister provide me with a number for how much in additional national insurance contributions the Government expect to receive from freezing the threshold that has an impact on apprentices? Below the threshold, their NICs are rated as zero; above the threshold, they pay NICs. Many of them will now be brought into paying NICs because the threshold is frozen. It is particularly interesting to me that the Government have chosen to target that group. The same goes for young people; I would love to have those numbers. I honestly do not think that most apprentices, students or even the businesses that apprentices work with have caught on to what is happening.

Baroness Penn (Con): I note the noble Baroness's specific questions. I am afraid that I do not have those figures to hand, but I will happily write to her with them. I take her point about those limits. As I say, it would probably be better to write but I imagine that, if there is an element of keeping parts of the tax system aligned, it is therefore a follow-on from the decisions we made on income tax thresholds passing through. I think it is probably better for me to write with the specific figures and the rationale for those decisions.

The noble Baroness also asked about the increase in the lower earnings limit, meaning that some people may lose eligibility for contributory benefits. Of course, since the introduction of the lower earnings limit, there have been a number of ways in which individuals can receive credits to protect their eligibility for contributory benefits. Those who are in receipt of universal credit or child benefit automatically receive class 3 NICs credits, which count towards their entitlement to the state pension. Only individuals receiving maternity allowance, carers allowance and contribution-based JSA and ESA are entitled to class 1 credits, which make them eligible for contributory benefits including the state pension. As I am sure the noble Baroness knows, individuals who are not in receipt of NICs credits can pay voluntary class 3 NICs to build their entitlement to the state pension; this could be individuals who earn below the lower earnings limits or individuals who have a gap in their NICs record from being unemployed or living abroad.

The noble Baroness also made a point about the changes to the triple lock this year not taking earnings into account. Those were very specific circumstances that we faced with the impact of the pandemic on those earnings figures. We are quite clear that that is an exception to our approach rather than the norm.

Finally, the noble Lord, Lord Tunnicliffe, talked about Jack Monroe's campaign on the differential impact on inflation, looking at low-income households in particular. She has done excellent work and I am glad the ONS has taken up her suggestions. We will be interested to see the results of that work.

The Government recognise the impact of current energy costs and broader inflation on households. That is why we have taken a significant number of steps to support low-income households, including providing £670 million in 2021-22 for local authorities to support households struggling with their council tax bills; £140 million in 2021-22 for discretionary housing payments; and over £200 million a year, through the spending review 2021, to continue the holiday activities and food programme. We also raised the national living wage in April to ensure the lowest paid

continue to receive pay rises, and we continue our ambition to abolish low pay altogether through use of increases to the national living wage. In recent weeks, the Chancellor set out a £9 billion package of support for low-income and middle-income households, with support for everyone to smooth the costs of the particularly high energy bills they are currently facing.

I hope I have addressed all noble Lords points. If there are further points that I have not managed to address specifically, I will write.

Motion agreed.

Social Security (Contributions) (Rates, Limits and Thresholds Amendments and National Insurance Funds Payments) Regulations 2022

Considered in Grand Committee

4.56 pm

Moved by ***Baroness Penn***

That the Grand Committee do consider the Social Security (Contributions) (Rates, Limits and Thresholds Amendments and National Insurance Funds Payments) Regulations 2022.

Motion agreed.

Immigration and Nationality (Fees) (Amendment) Order 2022

Considered in Grand Committee

4.57 pm

Moved by ***Baroness Williams of Trafford***

That the Grand Committee do consider the Immigration and Nationality (Fees) (Amendment) Order 2022.

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, the Immigration and Nationality (Fees) Order 2016 sets out the immigration and nationality functions for which a fee is to be charged and the maximum amount that can be charged in relation to each of those functions. The order under discussion today seeks to make two changes to the 2016 order, specifically amendments to the maximum amount that can be charged for two application types: entry clearance as a visitor for a period of six months or less, more commonly known as a short-term visit visa; and entry clearance or leave to remain as a student.

I make it clear at the outset that the changes being discussed today do not alter the fees actually paid by customers. Specific fee levels are set out in separate legislation, namely the Immigration and Nationality (Fees) Regulations 2018, and these levels are not impacted by the amendment we are debating today. The changes in this amendment will serve to increase the flexibility in relation to fees in the future.

The maximum amount that can be charged for a short-term visit visa will increase by £35 from £95 to £130. This will align with the fee maximum for the published unit cost for this product. The maximum amount for entry clearance or limited leave as a student will be raised by £10 from £480 to £490. The relatively small increase will provide some additional headroom for student fees, particularly those that are close to the current maximum amount.

By way of background, both changes mark the first time the maximum amounts will have increased since 2016. They provide some additional flexibility for these fees in future, allowing the department to take a balanced approach when considering fee changes across visa routes.

5 pm

Changes currently under consideration include adjustments to simplify the range of fees payable by customers. They include removing specific additional charges and consolidating into one overarching fee. A good example would be removing the biometric enrolment fees which are charged alongside certain applications, with those costs recovered through main application fees instead under a simpler and more transparent approach. I will of course share further details with noble Lords when I am in a position to do so.

Noble Lords will be aware that migration and borders functions are funded largely by immigration and nationality fees as part of the Home Office spending settlement to reduce the burden on the taxpayer. In order to maintain this position, it is critical that any changes are made in a way which is funded by other changes within the system. It is therefore vital that the maximum amounts set out in the fees order allow appropriate choices to be made on individual routes to support a balanced approach overall.

In conclusion, I emphasise again that we are not changing any fee levels through this order today. Any changes to specific fees would be subject to cross-government consultation and further parliamentary clearance and would be implemented through fees regulations, not this fees order. I hope that the Committee will see the need for this order. I beg to move.

Lord Paddick (LD): My Lords, I thank the Minister for explaining the order. As she said, it increases the maximum fee that can be charged for applications for entry clearance into the UK for short-term visits of up to six months from £95 to £130 and for students from £480 to £490. Those are the maximum amounts that could be charged, but the fee is set under different regulations.

Interestingly, the reason given in the Explanatory Memorandum

"to better reflect the cost of processing applications"

applies only in the case of the visitor visa, not the student visa. Will the Minister tell the Committee the cost of processing both types of visa and how much headroom these new maxima will provide? Is it the case that the cost of the student visa is nowhere near the cost of processing the application, as the Explanatory Memorandum appears to suggest? If the current fee for student leave to remain applications is £475 and for student leave to enter applications is £348, why is it necessary to increase the maximum fee chargeable to £490 now when neither fee is currently charged at the maximum allowed? Can the Minister explain why it is

[Lord Paddick]

so much expensive for a student to apply to remain in the UK than to apply to enter the UK? Intuitively, once a student's details have been processed and retained, it would be easier and less costly for the Home Office to extend the visa.

The Explanatory Memorandum states that the consultation on this order took place more than eight years ago, between November and December 2013. Why has more recent consultation not taken place?

The draft impact assessment states that:

"The strategic objective is to attract talent and take back control."

Can the Minister explain how either of these increased maxima will achieve those objectives? We have asked this question before, and we ask it again.

The impact assessment states that:

"Visa and immigration fees are set … to ensure that the Home Office has appropriate funding to provide effective Border, Immigration and Citizenship (BIC) services … and to move closer towards 'self-funding' and reduce the burden on the taxpayer."

The Minister referred to the reduction of the burden earlier. Can she explain why the Home Office is unique in being required to be self-funding in the broader immigration and citizenship services it provides? Those services benefit every citizen of the UK through effective border and immigration control. Why is the health service not funded by those who use its services? Is the reason not the one set out in paragraph 8 of the impact assessment:

"The main groups affected are those migrants wishing to come to or extend their stay in the UK"?

They are people who cannot vote.

In addition, the impact assessment talks about providing

"additional scope to ensure that the department's charging structure is flexible enough to support evolving products and services."

Can the Minister confirm that fees are now being charged at a rate not just to fund existing services but to pay for research, development and provision of new products and services, such as the electronic travel authority?

The impact assessment says the impact of increasing fees on volumes is "highly uncertain", yet paragraph 46 says:

"The proposed changes will generate direct benefits for the Home Office. Revenues will be higher from those applicants that continue to apply despite higher fees."

I understand that the increased maximum for a student visa is small, and a small proportion of the overall cost of studying in the UK, but the increase in the maximum for a visitor visa is significant. Only last week I was in Cape Town talking to South Africans about the deterrent effect of the current UK visitor visa fee, even without the potential increase that this order would allow.

The order gives the Home Office the potential to increase the fees for visa applications, impacting on overseas visitors and potentially damaging our tourism and education sectors. At the same time the Home Office, rather than taking back control of our borders, has added 10 more countries to visa-free entry, while retaining visa-free entry from EU and EEA countries. The Government seem determined not to be seen to be giving EU or EEA citizens any advantages post Brexit, but in order to maintain this ideologically driven stance they have thrown open our borders to even more countries. It seems that the Home Secretary would rather be tough with migrants than with the Treasury over the Home Office funding settlement. I look forward to the Minister's response, either now or subsequently in writing.

Lord Ponsonby of Shulbrede (Lab): My Lords, the noble Lord, Lord Paddick, asked a number of the questions that I was planning to ask. I am aware that there is a wider debate on immigration fees and the Government's policy of making a profit on certain groups, such as Commonwealth veterans or those paying for optional premium services. That wider debate is being carried out on the Nationality and Borders Bill as we speak.

I am aware that in this SI we are talking about two specific cost increases to the cap. Specifically, I noticed the note in the impact assessment that the optional premium services are

"charged above cost … to meet customer demands and to limit fee increases in other areas."

Is the Minister able to say how much extra money is made through these optional premium services? By how much does that reduce other costs?

Another point, which was touched on by the noble Lord, Lord Paddick, is about tourism. Does the Minister recognise the importance of supporting the tourism industry? As she will know, there was an interesting Question in the Chamber earlier this month about school parties coming from France. I think she will have picked up the general sense of frustration in the House that school parties from our nearest neighbours are not coming. I understand the point about Covid, but nevertheless I hope she picked up the general sense of frustration in the House at the answers she gave to that Question.

The noble Lord, Lord Paddick, explored another point by asking the Minister to give a wider explanation about the need to provide extra headroom on the fees. As he asked, what is the cost of processing the fees? How much headroom is the Minister seeking in this SI? I understand the reasoning behind it, but what is that headroom and what is the processing cost?

The other point that I wanted to make—to pick up a point also made by the noble Lord, Lord Paddick—was about the general move to self-funding, which is a clearly stated aim by the Government. The noble Lord went on to question why this element within the visa system should be moving to self-funding when other large departments have not had that constraint put on them. I would be interested to hear from the Minister a philosophical defence of that position, given that we benefit from immigrants. That point is acknowledged, so why should the department be moving towards self-funding?

Baroness Williams of Trafford (Con): I thank both noble Lords for the points they made. I will first answer the last question on why we should be moving towards self-funding. We have been self-funding since

as far back as I remember and it has always been the case that those who use our border and immigration services should contribute towards the cost of running them. It is not something that absolutely everybody in the country avails themselves of, unlike the NHS, which we all pay for through taxes. That is my best guess as to why we charge contributions towards the cost of border and immigration services.

Both noble Lords asked about the costs of the short-term visit visa. The incremental growth between 2015 and 2019 was from £85 to £95, and there have been no increases since 2019. The fee is currently £35 less than the published unit cost, which is £130. The current maximum amount of £95 has not changed since it was set in 2016. The impact assessment for this order suggests that an increase, even to the new maxima, would not have a significant impact on demand: 41,000 fewer applications. Against a baseline of 1.72 million, this represents about a 2.4% reduction in 2022-23, with a net benefit to HMG of £55 million. That is additional revenue minus costs, including the impact on the Exchequer of reductions in inbound tourism. There is little evidence to suggest that previous fee increases have had a notable impact on volumes.

The fee is broadly comparable to those of competitor countries, although the differing benefits offered by these products make direct comparison quite difficult. For example, the Schengen visit visa is cheaper at £67 but is valid for three months, compared with six months for the UK short-term visit visa. The comparable US visa is £117 but is valid for 10 years.

The noble Lord, Lord Ponsonby, asked about the premium service. It is entirely optional and costs between £15 and £48. As I say, it is optional. To answer the question of the noble Lord, Lord Paddick, the fees are set under the charging powers in the Immigration Act 2014. The estimated unit cost of the in-country student main applicant and dependant applications are £252 for a child student and £153 for an overseas applicant. As I say, the cost and the fee are quite different. I explained at the outset that the fees contribute to the cost of the border.

I think the noble Lord, Lord Paddick, asked me a couple of other questions that I did not manage to write down in time, so if there is anything outstanding I will write to him. At this stage, I beg to move.

Motion agreed.

Occupational Pension Schemes (Collective Money Purchase Schemes) Regulations 2022

Considered in Grand Committee

5.15 pm

Moved by ***Baroness Stedman-Scott***

That the Grand Committee do consider the Occupational Pension Schemes (Collective Money Purchase Schemes) Regulations 2022.

Relevant document: 28th Report from the Secondary Legislation Scrutiny Committee

The Parliamentary Under-Secretary of State, Foreign, Commonwealth and Development Office and Department for Work and Pensions (Baroness Stedman-Scott) (Con): My Lords, this statutory instrument will implement the authorisation and supervisory regime for collective money purchase schemes. These are commonly known as collective defined contribution, or CDC, pension schemes. These will be the first schemes of their type in the United Kingdom pensions market. A further statutory instrument, the Occupational Pension Schemes (Collective Money Purchase Schemes) (Modifications and Consequential and Miscellaneous Amendments) Regulations 2022, will be laid shortly to implement further consequential amendments required for existing pensions legislation to accommodate CDC schemes. These further regulations will be laid using the negative procedure.

Before I move on to the detail of this instrument, I will remind noble Lords of the purpose of this new type of pension. The United Kingdom pensions market we see today has been built around defined benefit schemes, where the employer underwrites the pension benefits paid to employees, or defined contribution schemes, where individual members bear all the investment and long-term risks and where there are no employer guarantees regarding what the member might receive at retirement.

CDC schemes provide an alternative approach in which member and employer contributions are pooled and invested with a view to delivering benefits at the level to which the scheme aspires. They offer potential benefits in economies of scale and the opportunity for greater investment in higher-returning assets than are usually associated with defined contribution occupational pension schemes. Their collective nature means that investment and longevity risks are shared across the whole membership, and as these schemes provide an income for pensioner members there is no need for members to make complex financial decisions at the point of retirement. The Government believe that this new type of pension provision will be more sustainable for employees and employers alike, and has the potential to offer better outcomes for pension scheme members.

I turn now to the statutory instrument itself. Noble Lords will appreciate that this is a necessarily detailed set of regulations. As a new type of pension scheme, it is critical that employees and employers can have confidence in CDC pension schemes. These regulations set out requirements for the process of applying for authorisation and further detail on the criteria that need to be met by CDC schemes in order for them to be authorised to operate.

The authorisation criteria include that the design of a CDC scheme must be sound and that it has sufficient financial resources to operate and deal with particular issues that may arise. There is also a requirement that only fit and proper persons are involved in particular capacities to do with making key decisions about the scheme. If the Pensions Regulator is not satisfied that all the authorisation criteria are met, it cannot authorise the scheme.

These regulations also set out requirements relating to the Pensions Regulator's supervisory role. It can withdraw authorisation if it is no longer satisfied that

[Baroness Stedman-Scott]
the authorisation criteria are met. The regulations set out further detail on information to be provided to the regulator while the scheme is running, which will help it consider whether it is satisfied that the authorisation criteria for schemes continue to be met.

These regulations also provide more detail about the actions trustees must take if a scheme experiences a "triggering event". These are certain events, set out in the primary legislation, that can pose a threat to the future of the scheme and the interests of members. If a triggering event occurs, the trustees must take certain actions or continuity options. A triggering event may lead to a scheme being wound up. Schedule 6 provides a detailed framework for winding up a scheme.

These regulations amend the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010 to allow for an alternative automatic enrolment quality requirement for CDC schemes. They also amend the Occupational Pension Schemes (Charges and Governance) Regulations 2015 to implement an annual charge cap set at 0.75% of the value of the CDC fund, or an equivalent combination charge. Finally, they amend the chair's statement requirements in the Occupational Pension Schemes (Scheme Administration) Regulations 1996 to reflect that CDC schemes will not have a default arrangement.

I now wish to acknowledge the considerable interest expressed in both Houses on CDC schemes during the passage of the Pension Schemes Act 2021. Many valuable contributions were made at that time regarding aspects of CDC schemes. A key concern was ensuring that CDC schemes treat their members fairly and, in particular, respect the interests of different generations. To help achieve this, Regulation 17 sets out requirements for CDC scheme rules to ensure that there is no difference in treatment when adjusting benefits between different cohorts or age groups of scheme members, or between members who are active, deferred or receiving a pension.

The importance of good communications to members of these new schemes was debated here and in the other place. Concerns were expressed that members should be given access to enough information to give them confidence to make informed decisions about their savings. Much of this is provided for in the negative regulations which have been published in draft and will be laid shortly. Alongside the regulations we are debating today, these will provide for transparency to allow for scrutiny of how a CDC scheme is operating.

The forthcoming negative regulations package will set out the disclosure requirements for scheme providers, with requirements to provide information relating to target benefits, including the actuarial valuation and a statement informing members and prospective members that benefits may be adjusted based on the actuarial valuation and are not guaranteed. CDC schemes will also be required to publish their scheme rules, including details of benefit design.

Debates on the Act also covered the powers of the Pensions Regulator to specify the requirements that should be met in respect of the financial sustainability of the scheme. Schedule 3 to the regulations sets out in detail the financial sustainability requirements for new .213CDC schemes, including the information required on application for authorisation and what the regulator must take account of in deciding whether it is satisfied that a CDC scheme has sufficient financial resources to meet the costs of establishing and operating the scheme, as well as sufficient resources to deal with the costs, as required by the Act, if a triggering event occurs.

Finally, concerns around the diversity of trustee boards, and what may be done to improve diversity, were raised during the passage of the Act. The Pensions Regulator has published a draft code of practice, which sets out that trustee boards should have policies on diversity and inclusion, including objective selection criteria, and that they should demonstrate that they have the ability to capture and monitor data on diversity and inclusion. I beg to move.

Baroness Janke (LD): My Lords, I thank the Minister for her presentation, which was clear and to the point. I would like to raise two issues for consideration.

The first is the possibility of widening the scope for CDCs to smaller companies and how the Government view that. The current legislation has been written very much with Royal Mail in mind but if the CDC scheme goes well, others might want to follow suit, including smaller employers. But they would want to join something bigger; for example, a multi-employer or industry-wide CDC scheme or master trust CDC scheme. Will this require new primary legislation to allow multi-employer schemes, or does the Pension Schemes Act give the DWP sufficient power to do this? If it would require new secondary legislation, how long does the Minister think this might take? Does she share the view that multi-employer schemes are key to unlocking CDC? Not everyone has the resources or scale of the Royal Mail to do it for themselves. Please can she explain the process for multi-employer CDCs?

Secondly, can the Minister say something about retirement-only or decumulation CDCs and the position of the DWP on these? One of the discussions over the new pensions freedoms is that individuals take all the risk of managing a DC pot for themselves, including the longevity risk. In a pooled CDC retirement scheme, this is shared with others, so it is an attractive option for people to join at retirement. What is the scope for these and what is the position of the DWP on this? NEST has hinted that it might be prepared to look at it, but it would be helpful to know whether the Government look on these suggestions favourably. I look forward to the Minister's response.

Baroness Drake (Lab): My Lords, I refer to my registered interests: I am trustee of the Telefonica pension scheme and the People's Pension master trust. I thank the Minister for her helpful presentation of the regulations, and the DWP staff who kindly took the time to answer my many queries. My contribution is rather long. The only consolation is that it would have been even longer had I not had that discussion with colleagues.

Collective defined contribution schemes are clearly a welcome addition to the pensions landscape, whereby employees can, in effect, share their investment and longevity risks and remove some complexity from

individual decision-making. But with only one employer committed to date, there is a risk that the regulations are bespoke for the Royal Mail scheme but may need adapting for others set up subsequently.

There is considerable uncertainty over the fuller impact of the CDC proposal, which is reflected in the detail of the regulations and the draft code. The code contains a list of matters more likely to satisfy the Pensions Regulator, but some lack a qualitative feel or benchmarks or triggers. Take the example of trustee governance. The draft code says that the regulator is

"more likely to be satisfied"

if there is clarity as to

"who decides in a scenario where both the employer and trustee have an interest",

but it does not express a view on good practice in such scenarios.

A CDC scheme is set up under an irrevocable trust by an employer. In a single or connected employer scheme, sustainability can be influenced by employer behaviour and changes to corporate control and structure. A regulator's expectations for the governance framework and the extent of trustee discretion are therefore particularly important. I ask the Minister: is it the intention to set out good practice expectations on the governance framework and the extent of trustee discretion?

The approach to authorisation, supervision and continuity reflects that for master trusts, but there are differences. For authorisation, it is the actuary who confirms the soundness of the scheme and issues the viability certificate. There are a lot of requirements for the actuary to meet before issuing a certificate, including a novel role in considering non-actuarial matters. Is this considered a materially extended level of obligation on an actuary when compared with other forms of pension schemes?

5.30 pm

On benefits, calculations and adjustments, the regulator expects the trustees to make their legal advice available to the actuary. Can the actuary rely on the trustees' legal advice when issuing a viability certificate? A certificate requires certain tests to be met: two gateway tests at authorisation and two live running tests after the scheme has begun operating. The first gateway is met if the estimate of the projected average annual increase in the first 10 years of benefits on a central estimate is no less than the estimated projected annual increase in the CPI. But why is that test is set on a central estimate basis with no element of prudence built into achieving the projected increase?

The other tests are intended to limit the amount of cross-subsidisation between members and the risk of excessive cross-subsidy. As the Minister herself said, fairness between groups of members—in particular, the fair treatment of younger members—is of considerable importance. On the information available, it is difficult to assess whether the proposed gateway and ongoing tests provide a confident measure of whether a scheme's design is sound and fair, and whether they would be appropriate for all CDC schemes. Given their importance, could the code of practice or any guidance to supplement that code set out more clearly why these tests for controlling cross-subsidies will be fit for purpose in all authorised schemes?

A CDC scheme can have more than one section. For example, where an employer wants to pay different rates of contribution for particular employees, new employees or future accruals, or offer non-CDC benefits, they have to set up a separate section. However, in my view, separate sections can carry the potential for one section to weaken the viability of another—or even precipitate closure; for example, by reducing the size of the scheme membership and/or stemming the flow of new members. I think I understand that the potential to impact on the soundness of another section would not form part of the assessment for the authorisation of a new section; such an impact would be dealt with through the "significant or triggering event" process for those other sections. However, given that CDC schemes need to be sustainable over very long periods, and companies can change ownership or be restructured over shorter periods, that could be a regulatory weakness. If it is considered appropriate, can the Pensions Regulator defer the authorisation of a new section on the grounds of its impact on the sustainability of another section? What consideration is being given to permitting variation in the benefit characteristics in a CDC scheme without the need for opening a new section?

To be financially sustainable, a scheme must have reserves to meet the costs of dealing with a triggering event and implementing a continuity option. These requirements seem less robust than those required of master trusts. Reserves do not have to be ring-fenced and the employer is not explicitly required to contribute. No doubt the Minister will argue that a CDC scheme cannot take in member contributions or funds prior to authorisation and the financial sustainability criterion being met. This, therefore, implies that an employer such as Royal Mail must provide some financial resources for a scheme to be authorised.

There are some "buts", however. It is not clear in what circumstances the regulator could require an employer to contribute to the reserves. The financial reserves required will change over time, as a scheme grows and becomes more complex, so what suits authorisation may not suit ongoing supervision.

Trustees have to identify other ways of meeting these scheme costs where they are not relying on the employer, such as building reserves from member charges or a service provider contracted on a fixed-cost arrangement, even if a triggering event occurs. The code does not require a pot of money or assets to be ring-fenced; the trustees can rely on other means, such as enforceable guarantees. But the strength of those guarantees or other means may depend on the strength of the employer. The employer covenant, trustee access and enforceability in insolvency will then all come into play and have to be monitored, but regulatory failure happens, even with the best of intentions and the most applied regulators. Yes, there is a prohibition on increasing member charges during a triggering event, but I ask the Minister—as I have in the past and no doubt will in the future—what happens if the reserves are not sufficient to meet the costs flowing from a triggering event.

Under a CDC scheme's rules, the employer can retain the right to wind up or close a scheme, or add sections, but there is no requirement to contribute to reserves, where their decisions increase the likelihood of a triggering event in a particular section. I ask the

[Baroness Drake]
Minister: would the regulator have the power to direct an employer to contribute to the reserves where an employer decision leads to a triggering event, if it is considered appropriate?

Where continuity option 3 to run as a closed scheme is implemented, there has to be a question about how long that position is sustainable. It is unclear when the regulator would consider it to be unsustainable, so I ask the Minister whether it is intended to set hard triggers that would flag to the regulator to consider directing trustees to wind up.

I am drawing slowly to a conclusion. The wind-up of a scheme and decollectivisation of benefits to individual discharge amounts will pose some challenges, and this will be a novel area. In my view, the regulations and draft code lack flesh on the process to manage members out of CDC. There needs to be a high level of confidence in and understanding of the calculation of members' final discharge amounts. Communications to and support for individual members will be challenging, yet there is no explicit provision for defaulting members into guidance nor requirement for targeted support for pensioners defaulted into income drawdown. Is it anticipated that such matters will be covered in the code?

Under the regulations, no pensions or benefits must be paid by the scheme during the wind-up period, but Regulation 29(7) says:

"Where a person … would have become a pensioner beneficiary … during the winding-up period … the trustees must pay that person a periodic income".

I struggle to fully understand the implications of those provisions, so I ask the Minister whether a person who would have become a pensioner beneficiary can opt out of receiving a periodic payment. Will such payments be treated as authorised payments, with implications for a member's pension freedom or limits on future tax-incentivised contributions? I could not find the trail to the answer to those questions.

Finally, on charges, will the code give guidance in the absence of reference to a de minimis for small pots and on how charges in relation to performance fees will be fairly applied when a member seeks a transfer out?

Lord Davies of Brixton (Lab): My Lords, I join the previous speakers in thanking the Minister for her helpful introduction. To a certain extent, it was discursive, in that it brought in broader issues to set the context for these regulations. I suspect that, in this area, we just have to get on and do it before we truly understand what the problems are. The Royal Mail proposals act almost as a pilot: we do not know how this is going to work until we actually do it.

The advantage of speaking after my noble friend Lady Drake and the noble Baroness, Lady Janke, is that almost all the points that I had in mind to make have already been made. In particular, we have to move towards multi-employer schemes. We have to move towards schemes that are effectively in payment-only arrangements. They are not really encompassed within these regulations, and we hope that, in due course, we will be able to move forward. When I say, "in due course", I really mean "soon", but it is good to have the issues on the table, and I am glad that the noble Baroness, Lady Janke, made those points and I echo them.

I am glad that my noble friend Lady Drake asked all those questions, as they are all pertinent and important and need to be answered. I have one slight question about her use of the term "central estimates" and the suggestion that these decisions have been made using prudent estimates. The problem with prudent estimates is: prudence for whom? One person's prudence could be a counterparty's lack of prudence. That is one of the central issues that still needs to be resolved in how these schemes operate: whose interests are being considered, and how to offset the interests of one group against another.

My natural inclination in those circumstances is to use what we used to call "best estimates," which have now been retermed "central estimates". "Best estimates" perhaps captures the issue a bit more closely, but people did not like using that term, so we now have to learn to use "central estimates". The point is that, as soon as you move away from a central estimate, you move towards favouring the interests of one group as against a counterparty group. That is one of the issues. The question was entirely reasonable, but it is a particularly difficult one to answer, which goes to the heart of how these schemes will operate in practice.

My third point is about the sheer complexity of this set of regulations. It is a bit depressing that there are going to be even more regulations. I have been told that, in practice, it is easier to establish a defined benefit scheme than one of these schemes; the procedural hoops that have to be jumped through to establish a scheme are easier for defined benefit schemes than for these new CDC schemes. Perhaps that is the right approach, but its effect is doubtless to deter organisations that might otherwise be attracted to developing this form of provision, because they are intimidated against doing it in practice. As is the nature of things, they will tend to be smaller, less professionally savvy groups of employers. That is why moving towards a multi-employer model is so important and urgent.

I think it reasonable to assume that other employers of the Royal Mail model are limited. This will work only if it is provided for a whole range of different sizes and natures of employer, including employers without strong human relations or whatever the staffing function is called, and employers without a strong union presence that can get involved in the development of this sort of scheme. In my view, that will happen only when we have a multi-employer model.

5.45 pm

Yet we have these regulations. I can cope with understanding regulations on pension schemes—humble brag—and I find these a real struggle. To expect people to cope with these regulations from a standing start is a big ask. They are here now, and I am not for one moment suggesting that we send them back and ask for them to be redrafted, but it means that the onus passes to the Pensions Regulator, which will have to bear this in mind when it considers applications to establish this sort of scheme.

Obviously, the regulator has to comply with the law and protect members' interests, but if it adopts a bureaucratic, nitpicking approach to how these regulations and requirements are met, we will have very slow progress on what is an important and useful development

as a type of pension provision. We have to emphasise this to, and work with, the Pensions Regulator to ensure that it adopts a practical approach and enables other employers to think, "This isn't going to be a nightmare; we can actually do this".

Baroness Sherlock (Lab): My Lords, I thank the Minister for her introduction to these regulations and all noble Lords for their contributions. As some noble Lords will remember, we spent a long time debating the Pension Schemes Act in this House. We asked lots and lots of questions about the establishment of CDC pension schemes. When we asked questions of the Minister, at least some of the time the answer came back: "The detail will be in the regulations". Now here we are; here are the regulations and they will implement the authorisation and supervisory regime for CDC schemes. It is not surprising that so many questions have come from my noble friend Lady Drake and other noble Lords, and I am afraid I have more to add to the list. I very much hope the Minister can answer them, because this is our last chance before the scheme is created and it is incredibly important.

Here are my questions, starting with the future of CDC schemes. In his foreword to the consultation document in 2019, the Pensions Minister, Guy Opperman, said:

"There were encouraging signs of a growing interest in CDC amongst employers and commercial providers, outside of the Royal Mail and CWU. I expect this will increase further".

It is three years down the road, and still only Royal Mail has committed to establishing a scheme. The Government admit that future take-up is still unknown.

In her contribution, my noble friend Lady Drake highlighted some of the concerns that flow from devising the details of a scheme with only one employer in mind. The future will not be the same, of course. The noble Baroness, Lady Janke, and my noble friend Lord Davies of Brixton asked what happens if other employers want to join in future. It is my understanding that we would need additional legislation if we got developments such as unconnected multi-employer schemes or commercial master trusts operating CDC schemes. The Minister can confirm that.

In such scenarios, different risks would need to be considered. One would expect the regulations and the code of practice provisions on things such as financial sustainability and trustee discretion to be more robust. For example, I would expect to see a definite requirement to ring-fence reserves to meet the costs of a triggering event or implement a continuity option; or, for example, a strengthening of trustee discretion over things such as opening new sections or the appointment of the chair of trustees. Can the Minister confirm that these regulations and the draft code of practice under consultation will not be considered fit for purpose for unconnected multi-employer and commercial master trust schemes?

The Government have acknowledged that there is considerable uncertainty as to the impact of the CDC proposal. I take the point made by my noble friend Lord Davies that, when one starts something, of course one will never fully know until it is out there. However, it is probably because of that uncertainty that the regulations and the draft code are long and complicated —because they are trying to cover for a range of circumstances. In turn, I suspect that that will mean that the CDC scheme rules are likely to be long and require a high level of understanding by trustees and their advisers. That complexity adds to the importance of clear member communications, and good systems and processes.

However, because of the way in which the rules are framed—my noble friend Lord Davies is right—a lot of responsibility will have to be borne by the regulator on some complex technical issues. If CDC schemes grow in number, as is hoped, how will the regulator, given its increasingly complex pensions remit generally, build and maintain the necessary capacity and capability to authorise and supervise such schemes? This is highly technical stuff but with a lot at stake. How is the regulator going to be able to manage it?

Next, I want to turn to the fit and proper person test for trustees. These regulations, in Regulation 8 and Schedule 1, together with the code of practice, set tough fit and proper person requirements for assessing whether a person can be a trustee of a CDC scheme, especially around skills, knowledge and experience. I am clear about the importance of ensuring that members' interests are protected by an informed, knowledgeable and balanced team of trustees. However, the detail in the draft code leads me to ask a couple of questions. Is the Minister at all worried that the bar is perhaps set too high for committed and conscientious member-nominated trustees to meet? Is it perhaps the policy intention to squeeze out member-nominated trustees from single or connected employer CDC schemes? Is it perhaps the intention to have CDC schemes run only by professional trustees?

I realise that the scheme rules are complicated but, if schemes end up relying increasingly on professional trustees, that potentially brings a different risk: groupthink. Corporate trustees are more likely to come from the industry and may be more concerned with compliance than looking beyond it to see emerging risks. Further, a single employer or connected employer CDC scheme is established under an irrevocable trust by an employer. Could the terms of such a trust fetter the discretion of the trustees to a point and remove the chair of trustees?

Then there is the key issue of financial sustainability, about which my noble friend Lady Drake asked some crucial questions to which the Committee needs clear answers today. I am going to go back a little in history and remind the Minister of a couple of exchanges during the passage of the Bill. I must say, I was a lot more articulate in my head at the time than I was when I read it in *Hansard* afterwards; it is amazing how much less impressive it is when one reads it later, but bear with me. In Committee, I put this to the Minister:

"I think I understood her to say that the regulator would not approve a scheme unless the sustainability criteria had been met and that they could be met only if an adequate amount of money was placed in, for example, escrow. Is she saying that a scheme would be approved only if the regulator was satisfied that enough money had been provided up front by the sponsoring employer to fund the continuity options in the event of a triggering event?"

She replied:

"The answer to the question asked by the noble Baroness, Lady Sherlock, is yes, the money would be in an escrow account if needed."

I pressed her further and asked:

[Baroness Sherlock]

"So could it never be the case that in the event of a triggering event, such as a wind-up, an employer pulling out or an employer downsizing, money would have to come from members' contributions to fund the continuity option?"

The Minister's answer was clear. She said:

"The answer to that question is no, it should not be."—[*Official Report*, 24/2/20; col. GC 18.]

How can we be assured of that?

My noble friend Lady Drake had an exchange with the Minister on the same issue on Report. I hope that the Committee will bear with me if I quote again briefly. The Minister said:

"For the financial sustainability requirement at Clause 14 to be met, the trustees must provide evidence that they can access sufficient financial resources to cover the costs associated with setting up and running the scheme, as well as those associated with dealing with triggering events. If the regulator is not satisfied about the security of these resources and that they can be accessed as needed, the requirement will not be met and the scheme will not be authorised. It may well be that, in the early days of a CDC scheme, initial funding comes from the employer, but our approach does not just rely on employer-provided financial support; it enables trustees to draw on other options, including funds held in escrow, insurance policies or contingent assets. These should be available to cover any costs arising from a triggering event."—[*Official Report*, 30/6/20; cols. 604.]

That raises a key question: how can the Minister assure the Committee that there will always be enough money available to meet the cost of a triggering event and implement the continuity strategy without recourse to members' funds, as she promised on Report? Despite all our pressure, the Government chose not to require the reserves to be more obviously ring-fenced, as in a master trust. As my noble friend Lady Drake has pointed out, the requirements in the regulations and the draft code are pretty soft and unspecific. I look forward to hearing the Minister's answer to her question as to whether there will be hard triggers—such as ratios—when we come to make those assessments.

I have gone on quite a bit but I think this is incredibly important. A lot of people will read this record—more than the number in this Room—because huge amounts of money will be at stake. If the Minister is asking the House in due course to pass these regulations, it is really important that we get some concrete reassurances on the safety of those members' assets.

Finally on this issue, can the Minister assure the Committee that, when moves are made to extend the CDC authorisation to unconnected multi-employer schemes or commercial master trusts operating CDC schemes, the financial sustainability requirements will be more robust, given the nature of the risks and the increased scale that would bring?

The Pension Schemes Act 2021 created a whole new kind of pension scheme. That does not come along very often. These regulations are the only chance that the House of Lords will have to gain clarity on how those schemes will operate and how members' assets will be protected. I therefore really hope that the Minister has come armed with some detailed answers. I look forward to her reply.

Baroness Stedman-Scott (Con): My Lords, I thank all noble Lords for their helpful contributions to this debate. Before the noble Baroness, Lady Sherlock, raised it, memories came flooding back of our discussions on the Bill, which were lengthy and in depth.

I start by raising the points made by all noble Lords; I will try to answer at the level and detail for which the challenge has been set down. The noble Baronesses, Lady Janke and Lady Sherlock, asked how we will ensure that the CDC scheme has sufficient financial resources to cover the cost of operating the scheme if things go wrong. As part of the financial sustainability and continuity strategy authorisation criteria, the scheme must show how members will be protected against impacts, including costs, if a triggering event occurs, and must satisfy the regulator that there are sufficient protections. The financial sustainability requirements include demonstrating that there are sufficient financial resources to cover the cost of establishing and operating the scheme as well as costs arising from addressing a triggering event. This must be available to be used as and when needed.

If the regulator is not satisfied that the criteria are met, it must not authorise the scheme. The scheme will also need to satisfy the regulator on an ongoing basis that it continues to meet the authorisation criteria; for example, if the costs associated with addressing a triggering event change, the scheme must be able to show that it has sufficient resources to cover this. The regulator can require information relevant to the authorisation criteria to be included in a supervisory return. It is a significant event if the scheme is unable or unlikely to be able to meet the cost of a triggering event occurring.

Again, the noble Baronesses, Lady Janke and Lady Sherlock, raised the appointment of trustees and asked how we will ensure diversity on the board of the trustees. Our primary focus is on ensuring that trustees in all occupational pension schemes meet the standards of honesty, integrity and knowledge appropriate to their role. The regulator's draft code of practice, published in January, sets out that trustee boards should have policies on diversity and inclusion, including objective selection criteria, and should demonstrate that they have the ability to capture, process and monitor data on diversity and inclusion. This would need to be demonstrated to the regulator for it to be satisfied both that the scheme satisfies the authorisation criterion and that the scheme's systems and processes are sufficient to ensure that it is run effectively. The regulator will continue to supervise trustee action in this area and has established a working group to look at data, research, best practice, practical tools and employer engagement. We will look at the outcomes from the working group and consider what measures are needed.

6 pm

The noble Baroness, Lady Janke, asked about widening the scope of CDCs to other organisations and multi-employer schemes. Under the Bill, the powers to extend CDCs to multi-employer schemes by secondary legislation are subject to the affirmative resolution procedure—so the powers under the Bill are there. At this moment, we are developing our understanding of the models that stakeholders are interested in delivering, including multi-employer schemes, master trusts and decumulation-only models.

I move on to the contribution of the noble Baroness, Lady Drake; I am pleased to hear that our officials were helpful to her. She asked whether there are tax

implications that might limit a member's pension options once they are designated into draw-down at the end of the winding-up process, and made some interesting points about the tax regime and CDC schemes in wind-up. We will continue to engage with HMRC to ensure that the tax legislation works appropriately in those circumstances by the time one of these schemes is in a position where wind-up is being considered.

The noble Baroness also asked how, if a scheme decides to open a new section, the interests of members in the original scheme will be protected. A proposal for an undivided scheme to become a scheme divided into sections is a specified significant event. Trustees will need to notify the regulator of such a proposal and explain how the interests of members of the scheme have been taken into account. This will take place before an application to create a new section can be submitted. Schemes must be able to demonstrate that they can continue to meet the authorisation criteria on an ongoing basis, including whether the opening of another section would have an impact on the requirement that the design of the scheme is sound. If the regulator had concerns, it would challenge the trustees on why they wanted to pursue opening a new section without having a clear plan in place to protect the interests of members in the original scheme. If the existing section is to be closed to new members or accrual, the proposal to close it is a specific significant event and the decision to close it is a triggering event. Both must be notified to the regulator. The legislation sets out requirements for communication between trustees and the regulator in relation to the closure of a scheme or a section of a scheme.

The noble Baroness, Lady Drake, asked why we have not applied the de minimis measure to single or connected employer CDC schemes. We do not anticipate that the initial tranche of single or connected employer CDC schemes will have members with small pots. However, we will continue to monitor this and take appropriate steps if it becomes apparent that the de minimis measure is needed in CDC schemes. In any event, we will need to revisit the question of applying a de minimis measure or flat fees in CDC schemes if we extend such schemes more widely, including to multi-employer, sector-wide schemes and master trusts.

The noble Baroness made the point that employer contributions are not taken into account in the second gateway test and the first live running test. The tests are intended to ensure that members get fair value for the contributions they pay into the scheme. This means that, although the total contributions are pooled, these actuarial tests are designed to give members confidence that the value of their rights in the scheme will not fall below the value of the money they have personally contributed.

The other live running test takes a more holistic view using the employer and member contributions and seeks to identify excessive cross-subsidy between cohorts of members. It does this by comparing the contribution rate with rights to benefits expected to build up each year smoothed over a five-year period. If the benefits fall outside the window determined by reference to the contribution rate, the test is not met. This could be because contributions are a lot higher than expected benefits, which might indicate excessive transfer from contributing members to pensioners or deferred members, or the opposite, that is that contributions are a lot lower than expected which might indicate excessive transfer from pensioners and deferred members to contributing members.

The noble Baroness, Lady Drake, asked about trustees sharing legal advice on scheme rules. We will write with an answer to that.

She also asked what happens when there are insufficient funds to pay for wind-up. The regulations create an ongoing duty on trustees to ensure that there are sufficient assets to deal with the cost relating to a decision to wind up, which is a triggering event. They could, for example, be in the form of first call on employer assets.

The noble Lord, Lord Davies, said that the regulations are complex and asked how the regulator will cope. The regulator and the department have worked closely together in the development of the regulations and its code which will provide further detail on how the regulations are intended to work. The regulator will work closely with new schemes.

The noble Lord, Lord Davies, also raised a point on the use of central estimates and the complexity of the regulations. I agree with him. It is a big ask, but it is appropriate because it is important that schemes are well designed and well run.

I now turn to the questions asked by the noble Baroness, Lady Sherlock. She asked for confirmation that the regulations and the CDC draft code of practice under consultation will not be considered fit for purpose for unconnected multi-employer and commercial master trusts. The answer is yes. I have passed that one.

The noble Baroness asked how, as CDC schemes grow in number, we hope, and given the regulator's increasingly complex pension remit, the regulator will be able to build and maintain the necessary capacity and capability to authorise and supervise CDC schemes. We have worked closely with the regulator on this matter and will continue to do so.

The noble Baroness also asked whether the bar is set too high for committed and conscientious member-nominated trustees to meet. I believe I have answered this on the point about diversity and making sure that people have integrity.

Baroness Sherlock (Lab): I apologise, I was not clear enough. My question is not about diversity in the sense that it is mostly understood; I was specifically asking whether the requirements had been framed in such a way as to be too difficult for member-nominated trustees to meet, with the effect that they would be driven out in favour of corporate trustees, which would lead to us not having a diversity of views. I was not referring to the other, more traditional, understanding of diversity.

Baroness Stedman-Scott (Con): The point is very well made. We will have to work with member trustees to make sure that they are trained and that they understand the requirements prior to taking on responsibilities. I will consult my colleagues and answer in more depth in writing.

The noble Baroness, Lady Sherlock, asked whether the policy intention is to squeeze out member-nominated trustees from single or connected employer CDC schemes.

[Baroness Stedman-Scott]
The answer is no. She also asked whether the intention is to have CDC schemes run wholly by professional trustees. Again, the answer is no. She also asked a further question: "A single employer or connected employer CDC scheme is established under an irrevocable trust by an employer. Could the terms of such a trust fetter the discretion of the trustees to appoint and remove the chair of trustees?" I am advised that this is not the case and that there is no change from other schemes.

The noble Baroness also asked whether I can assure noble Lords that there will always be enough money available to meet the cost of a triggering event. As part of the financial sustainability and continuity strategy authorisation criteria, the scheme must show how members will be protected against impacts, including cost, if a triggering event occurs and satisfy the regulator that there are sufficient protections. The financial sustainability requirements include demonstrating that there are sufficient financial resources to cover the cost of establishing and operating the scheme, as well as costs arising from addressing a triggering event. They must be available to be used as and when needed. If the regulator is not satisfied that the criteria are met, it must not authorise the scheme.

The scheme will also need to satisfy the regulator on an ongoing basis that it continues to meet the authorisation criteria. For example, if the costs associated with addressing a triggering event change, the scheme must be able to show that it has sufficient resources to cover them. The regulator can require information relevant to the authorisation criteria to be included in a supervisory return. It is a significant event if the scheme is unable or unlikely to be able to meet the cost of a triggering event.

The noble Baroness asked about member-nominated trust rules applying to CDC schemes. Generally, trustees are required to ensure that arrangements are in place and implemented that provide for at least one-third of trustees or at least one-third of directors at the trustee company to be member-nominated.

The noble Baroness, Lady Sherlock, asked would—I apologise, I am struggling to read this piece of paper. I will write to the noble Baroness and place a copy in the Library so all noble Lords understand.

6.15 pm

The noble Baroness asked me to assure the Committee that, when moves are made to extend CDC authorisation to unconnected multi-employer CDC schemes or commercial master trusts operating CDC schemes, the financial sustainability requirements will be more robust, given the nature of the risks and the increased scale such schemes would bring. I can confirm that they will be appropriate to the risks.

I will write to noble Lords to clarify matters, when we have gone through *Hansard*, to make sure we have answered all the questions in the detail that they need. I appreciate the points that the noble Baroness, Lady Sherlock, made about this being the last chance in the regulations. As the noble Lord, Lord Davies, said, these are new schemes. I hope that, after we have passed these regulations, we carry on apprising noble Lords of their progress. We want all noble Lords to raise their concerns or ideas they have with us.

Baroness Drake (Lab): Before the Minister sits down, I am conscious of not going back to a supplementary question, so will be quick. On the small pots problem, I understand why it was said that it is not anticipated with, for example, nursery schemes, but we do not know what every scenario will be. I was seeking an assurance that these regulations do not set a precedent for removing de minimis protection for small pots, where needed. That is what I was looking for. I can see why a nursery scheme would address that, but it may not be the only solution.

I think I heard the Minister say that the regulator can consider the impact on existing sections when considering the authorisation of a new section, but could that be made clear in any letter? It is inevitable, as night follows day, that employers will want to change their pension arrangements at some point. This is just to be clear about the consequences, not to argue against what she was saying.

Baroness Stedman-Scott (Con): On the two points just raised by the noble Baroness, Lady Drake, the answer to the first is no, and we will write to the noble Baroness on the regulator and the sections and place a copy of that letter in the Library. I commend these regulations to the Committee and ask for approval to implement them.

Motion agreed.

Mesothelioma Lump Sum Payments (Conditions and Amounts) (Amendment) Regulations 2022

Considered in Grand Committee

6.18 pm

Moved by ***Baroness Stedman-Scott***

That the Grand Committee do consider the Mesothelioma Lump Sum Payments (Conditions and Amounts) (Amendment) Regulations 2022.

The Parliamentary Under-Secretary of State, Foreign, Commonwealth and Development Office and Department for Work and Pensions (Baroness Stedman-Scott) (Con): My Lords, these statutory instruments will increase the value of lump sum awards payable under the Pneumoconiosis etc. (Workers' Compensation) Act 1979 and the diffuse mesothelioma payment scheme, which was established by the Child Maintenance and Other Payments Act 2008.

These two schemes stand apart from the main social security benefits uprating procedure. However, through these statutory instruments, we will increase the amounts payable by the September 2021 consumer prices index of 3.1%. This is the same rate that is being applied to industrial injuries disablement benefit and other disability benefits under the main social security uprating provisions. These new amounts will be paid to those who satisfy the conditions of entitlement for the first time on or after 1 April 2022.

The Government recognise the tremendous suffering of individuals and their families caused by the serious and often fatal diseases resulting from exposure to asbestos or other listed agents. The individuals affected,

and their families, may not be able to bring a successful claim for civil damages in relation to their disease. This is mainly due to the long latency period of their condition and the fact that their former employer may no longer exist. They can, however, still claim compensation through these schemes.

These schemes also aim, where possible, to ensure that people with prescribed diseases receive compensation in their lifetime while they themselves can still benefit from it, without first having to await the outcome of civil litigation, which can take a long time. While improvements in health and safety procedures have restricted the use of asbestos and provided a safer environment for its handling, the legacy of its widespread use is still with us. That is why we are ensuring that financial compensation from these schemes is available to those affected.

I will briefly summarise the specific purpose of the two compensation schemes. The Pneumoconiosis etc. (Workers' Compensation) Act 1979 scheme—which for simplicity I shall refer to as the 1979 Act scheme—provides a lump sum compensation payment to individuals who have one of five dust-related respiratory diseases covered by the scheme, who are unable to claim damages from employers because they have gone out of business and who have not brought any action against another party for damages. The five diseases covered by the 1979 Act scheme are diffuse mesothelioma, bilateral diffuse pleural thickening, pneumoconiosis, byssinosis and primary carcinoma of the lung, if accompanied by asbestosis or bilateral diffuse pleural thickening.

The 2008 mesothelioma lump-sum payments scheme, which I will refer to as the 2008 scheme, was introduced to provide compensation to people who contracted diffuse mesothelioma but who were unable to claim compensation under the 1979 Act because, for example, they were self-employed or their exposure to asbestos was not due to their work. The 2008 scheme allows payments to be made quickly to people with diffuse mesothelioma at their time of greatest need. Under each scheme, a claim can be made by a dependant if the person with the disease has died before being able to make a claim.

The rates payable under the 1979 Act scheme are based on the level of the disablement assessment and the age of the person with the prescribed disease at the time the disease is diagnosed. The highest amounts are paid to those diagnosed at an early age and with the highest level of disablement. All payments for diffuse mesothelioma under the 1979 Act scheme are automatically made at the 100% disablement rate, the highest rate of payment, reflecting the serious nature of the disease. Similarly, all payments for this condition under the 2008 scheme are made at the 100% disablement rate and based on age, with the highest payments going to the youngest people with the disease. In the last full year for which data is available, April 2020 to March 2021, 2,270 awards were paid under the 1979 Act, totalling £34.4 million, and 400 people received payments under the 2008 Act, totalling £8 million. Overall, 2,670 awards were made across both schemes in 2020-21 and expenditure was £42.4 million.

As noble Lords will be aware, the Covid-19 pandemic has presented unprecedented challenges across government. I am particularly mindful of the tremendous impact it has had on many of our most vulnerable customers. I would like to share some actions we have taken to try and maintain services for customers during this time.

In March 2020 we temporarily suspended all face-to-face assessments to protect the health of claimants and staff. In order to qualify for payment under the 1979 Act, customers must have an entitlement to IIDB, so some customers will have been impacted by the suspension of face-to-face assessments. We have continued to process IIDB claims for people with fast-track prescribed diseases within average processing times, as those claims can be assessed on paper without the need for a face-to-face assessment.

To minimise disruption to our most vulnerable customers, we also introduced changes to the pre-pandemic processes of both DWP and our assessment provider, CHDA. These changes enabled DWP to undertake in-house reviews and enabled CHDA to increase paper-based assessments for some respiratory disease cases and undertake small volumes of video assessments for customers with specific claims and conditions.

Face-to-face IIDB assessments resumed for most customers in April 2021. However, we are continuing to assess some people on paper evidence wherever possible. Journey times for some claimants will have been increased because of this increase in paper-based assessments. Our healthcare providers are having to submit more requests for supporting medical evidence from the NHS, such as new X-rays and scans. This process can take some time in normal circumstances, but with the additional pressures on the healthcare sector it is taking longer than usual.

While a paper-based scheme and a limited number of video assessments will continue to be appropriate for some of our claimants, they will not be suitable for all. Face-to-face examinations are usually required for IIDB to confirm the nature and severity of disablement an individual may have. For example, disablement may need to be confirmed by testing lung function. These assessments can often be made only with the claimant present and can involve spending an hour, sometimes longer, in an enclosed private space with a healthcare professional. For this reason, some of the respiratory disease claims that cannot be assessed by paper continued to be suspended until earlier this year due to the additional risks in undertaking these assessments. They have now resumed with extra safety measures in place.

As a result of delays, some customers making claims for the lump-sum schemes will have had a birthday while waiting for an assessment, meaning that their award was at a lower rate. To ensure that no customer was unfairly disadvantaged as a result, from 19 August we began to award one-off special payments to put these claimants back into the position they would have been in had they not been affected by the suspension of services.

I turn now to lung health more generally. While we expect the number of people diagnosed with mesothelioma to begin to fall in the coming years, this Government are well aware that there will still be many people who develop this and other debilitating respiratory diseases in the coming years. That is why we are committed to working with our agencies and arm's-length bodies to improve the lives of people with respiratory diseases.

[Baroness Stedman-Scott]

The Covid-19 pandemic has presented major challenges for all healthcare systems. The NHS published a *Cancer Services Recovery Plan*, which was developed with the Cancer Recovery Taskforce. The plan aims to prioritise long-term plan commitments, which identified respiratory disease as a clinical priority, and will support recovery, including the delivery of targeted lung health checks.

We remain committed to returning the number of people waiting over 62 days to start treatment to pre-pandemic levels, as per the 2022-23 planning guidance, and to continuing to increase referrals by encouraging patients to come forward. Additional funding of £1.5 billion has been confirmed for expanding treatment capacity across all elective care next year, and £2.3 billion for diagnostics over the next three years. The plan makes it clear that cancer will be a priority for that funding. We need to work together to make sure that this happens. There is a focus on personalised stratified follow-up as part of out-patient transformation. Cancer has been identified as leading the way on patient-initiated follow-up, and the strategy sets out plans for all specialities to develop this.

The *2021/22 Priorities and Operational Planning Guidance*, published by the NHS in March 2021, includes plans for tackling the backlog of non-urgent treatment, such as services for lung disease patients, as well as plans that aim to stabilise total waiting lists and eliminate waiting times of two years or more. The Department of Health and Social Care has made available £1.5 billion to assist local teams to increase their capacity and invest in other measures to achieve these priorities. The spending review 2021 announced £2.3 billion to increase the volume of diagnostic activity and open community diagnostic centres to provide more clinical tests for patients, including those with lung diseases.

6.30 pm

We know that research is crucial in the fight against cancers such as mesothelioma. That is why the Department of Health and Social Care invests £1 billion per year in health research through the National Institute for Health Research. I am aware that people suffering from occupational lung diseases are likely to be at higher risk of complications resulting from Covid-19 and that it continues to be a distressing time for people with the prescribed diseases we are discussing today.

The Department of Health and Social Care is following the advice from independent experts on the Joint Committee on Vaccination and Immunisation on which groups of people to prioritise for Covid-19 vaccines. They advised that the immediate priority should be to prevent deaths and protect health and care staff, with old age deemed the single biggest factor determining mortality.

People with chronic respiratory conditions were prioritised as part of group 6 in the first phase of the Covid-19 vaccination rollout; this group was also given priority for the booster campaign. As of 19 January 2022, 91.3% of people aged 16 to 64 with underlying health conditions have received their first dose, 88.5% have received their second dose and 74.8% have received a booster or third dose.

Returning to these important regulations, I am sure that we will all agree that while no amount of money can ever compensate individuals and families for the suffering and loss caused by diffuse mesothelioma and the other dust-related diseases covered by the 1979 and 2008 Act schemes, those who have them rightly deserve the financial compensation that these schemes offer.

I am required to confirm that these provisions are compatible with the European Convention on Human Rights, and I am happy to do so. I commend the increase of the payment scales for these schemes and ask approval to implement them.

Baroness Janke (LD): My Lords, I thank the noble Baroness for her presentation of the uprating of benefits to sufferers of mesothelioma and pneumoconiosis and for her description of the measures that the Government have taken to address some of the needs of these sufferers during the pandemic.

However, I feel that the key issue here is whether the Government really consider a 3.1% increase in any way adequate, with inflation predicted to reach 7.25% by the time people receive the uplift—the Bank of England expects inflation to peak at 7.25% in April and to average around 6.2% over the course of 2022. According to the latest DWP statistics, in the year from October 2020 to September 2021, £39 million was paid out through the pneumoconiosis scheme and £8.4 million through the mesothelioma scheme. There were 220 and 30 claimants respectively in September 2021. These figures show that uprating the payments by 3.1% rather than 6.2% risks a real-terms cut of £1.2 million for pneumoconiosis claimants and £260,000 for mesothelioma claimants—a hugely unfair cut during a national cost-of-living crisis. I wonder how people will cope with this crisis of funding, particularly if they are severely ill.

There has been a 56% increase in the cost of energy, as we heard in an earlier debate. Not being able to afford heating is particularly punitive for sick people and further penalises them in relation to healthy people. What special measures will the Government introduce to support people who are sick, often gravely ill and dependent on care? How will people afford the necessary care in the financial crisis ahead? How will their families manage? This is particularly important as many lung diseases are diagnosed only when beyond treatment, with many sufferers having only a short time to live and a high need of care.

The Minister mentioned the fact that the Government have put more money into research on the causes of and cures for lung disease. However, lung disease accounts for 20% of all deaths yet research funding lags well behind other better-known diseases. I hope that this might change in light of the current circumstances. The British Lung Foundation campaigns for more research and supports sufferers and families. I pay tribute to its work but given the fact that the diseases are caused by dust, which is present still in large numbers of buildings—many containing vast amounts of asbestos—are we really taking adequate action to address these unhealthy circumstances? It is particularly distressing that so many sufferers are mystified as to how they contracted such a fatal condition. More research on lung diseases is needed, as the Minister said, and I hope that that might attract more funding as a result of the pandemic, when lung disease has been such a major killer.

The Health and Safety Executive estimates that occupational lung disease accounts for 12,000 deaths a year—still. This is not a disease of the past, as many people seem to think. I will therefore put the following questions in conclusion. What additional support will the Government provide in the light of the inadequacy of this uprating to support sufferers of mesothelioma and pneumoconiosis and their families? What is the Government's position on automatic uprating to give confidence to sufferers and families, which is urgently needed in the light of economic uncertainty? Will the Government look again at equal treatment for sufferers and families to reassure them that the families will not suffer? Will she raise with the Government the need to ensure more realistic funding for research into lung disease? I look forward to her response.

Baroness Wilcox of Newport (Lab): My Lords, I thank the Minister for introducing these regulations to the Committee and I am pleased to hear her references to additional support for people during the Covid-19 pandemic, which may otherwise have left them severely disadvantaged. However, more can always be done.

We have heard that the Government have decided to increase the amounts set out in the mesothelioma lump sum payments regulations by 3.1%, the rate of inflation as measured in September 2021 by the CPI. I will not repeat the figures quoted by the noble Baroness, Lady Janke, but I concur with her points regarding the gaps between this uprating and the exponential increases in the cost of living. This is an extremely vulnerable group of people in our society. I urge the Minister to look again.

Current high death rates among males aged 70 and above reflect the fact that this generation had the greatest potential for asbestos exposure in younger working life during the period of peak asbestos use in the 1950s, 1960s and 1970s. Death rates among those under 65 have now been falling for some time. The most recent deaths in this younger age group are among the generation who started working life during the 1970s or later, when asbestos exposures were starting to be much more tightly controlled.

These kinds of diseases are a result of our industrial past and today I am proud to put in the official record the name of one south Wales miner who toiled underground man and boy to bring wealth and prosperity to the whole UK from the 1950s to the 1980s, until the year-long miners' strike put paid to future employment for him and many like him. He was my dear late stepfather, Terrence John Howells, who luckily escaped the wrath of lung disease but was taken early by ischemic heart disease after a lifetime of working hard in the harshest of conditions underground, his face and hands covered in blue scars that were the permanent reminders of the toll that that industry left upon its workers.

Pneumoconiosis, in particular—also known as dust or black lung—was another industrial disease known as a silent killer, clogging and destroying the tissue of lungs and robbing thousands of men in particular of their futures. It was more prevalent in south Wales than anywhere else in the UK because of the young age at which mining was embarked on there. It ensured that families would see their fathers, husbands, brothers and sons fade through slow and painful illness. These compensation measures we are discussing must never be spoken about without remembering the context of the suffering of so many families and the consequences of these dreadful industrial diseases.

As well as reflecting on our industrial past and what people gave and endured in working in heavy industry, we must also reflect on the negligence towards health and safety matters. We need a strong Health and Safety Executive, but the number of health and safety inspectors has dropped by a third under this Government. There were 1,495 inspectors with the Health and Safety Executive in 2009-10, but just 978 in 2017-18, after falling every year in a row. Funding was slashed from £239 million to £136 million over the same period. Can the Minister tell us how confident she is that the HSE is sufficiently well resourced both to manage the risks to employees as we move out of the pandemic and to be mindful of the health risks we may encounter in the future, so that future generations will be better protected than my dear stepfather and his comrades were in their working lives?

In her speech on this matter last year my noble friend Lady Sherlock raised several important issues with the Minister that remain unaddressed a year later, so I will reiterate them on her behalf. There is a lack of parity between the levels of compensation being offered to sufferers and to their dependants, and we look forward to hearing a restatement of the Government's rationale for this decision. Similarly, will she address the impact of disparity on women, who are often the dependants? Is there a cost estimate of providing equal payments? I look forward to the Minister's response to these questions.

Baroness Stedman-Scott (Con): My Lords, as the noble Baroness, Lady Wilcox, reminded us of her relative, I start by saying that this is about people—people who contracted the disease through no fault of their own. We must be mindful of that. I remember that Lord Kirkwood, from the Liberal Benches, lost his dear wife to this. We must remember that this is about people.

The noble Baroness, Lady Janke, asked whether the 3.1% increase was adequate. The CPI in the year to September is the latest figure that the Secretary of State can use for the uprating review to allow her to meet the DWP's hard IT deadlines. Using a consistent period for uprating each year means that, over time, the index balances out. As to whether it is adequate, certain disability benefits, including the industrial injuries benefits, are being uprated by the rate of the consumer prices index in September, which was 3.1%. This increase matches the increasing industrial injuries disablement benefit, to which the 1979 Act scheme is linked, as the lump-sum schemes we are debating today provide compensation payments to people who have become disabled through these debilitating diseases. We believe that it is appropriate to uprate the payments in line with other disability benefits.

Both noble Baronesses asked what the Government are doing to help with the cost of living. We have raised the national living wage, given nearly 2 million families an extra £1,000 a year through our cut to the universal credit taper and increased work allowances, frozen fuel duty for the 12th year running and invested

[Baroness Stedman-Scott]
£200 million in successful holiday activity, and will maintain the energy price cap to at least the end of 2022 to protect millions of people and ensure they pay a fair price for their energy—in spite of the rising cost of wholesale energy.

6.45 pm

We must acknowledge today, as we have done in the past, that the cost of living is severely impacting people; we understand that people are having a difficult time. We are contributing £140 to the energy bills of 2.2 million low-income households, providing seasonal cold weather payments of an extra £25 a week to an estimated 4 million people during periods of severe weather and giving up to £300 in winter fuel payments to people over state pension age. We are providing £670 million to help local authorities support households struggling with council tax bills.

The noble Baroness, Lady Janke, asked what the Government are doing to ensure that disability benefits adequately support disabled people. We are forecast to spend over £58 billion this year on benefits to support disabled people and those with health conditions, which is around 2.5% of GDP. In 2021-22, spending on the main disability benefits—PIP, DLA and attendance allowance—will be nearly £5 billion higher in real terms than it was in 2010. In real terms, total disability benefit spending in 2026-27 is forecast to be over £23 billion higher than it was in 2010. We have increased the employment and support allowance for people with the greatest needs by around £900 a year. We have increased the higher rate of attendance allowance, carer's allowance and the rate of DLA paid to the most disabled children by over £140 a month. We have enhanced the rates of PIP, and there is a higher proportion of people on the top-up rates of PIP than there were on DLA—34% versus 15%.

The noble Baroness, Lady Wilcox, raised a very important point about research into lung disease. Research is crucial in the fight against cancer; that is why the Department of Health and Social Care invests £1 billion per year in health research through the National Institute for Health Research. For several years, we have been working actively from a low base to stimulate an increase in the level of mesothelioma research activity. This includes a formal research priority-setting exercise, a National Cancer Research Institute workshop and a specific call for research proposals through the National Institute for Health Research.

In 2016 the Government awarded a grant of £5 million from Libor to Imperial College to establish the National Centre for Mesothelioma Research. The centre brings together four leading institutions, all of which have major interest in the treatment of mesothelioma, at the National Heart and Lung Institute.

The noble Baroness, Lady Wilcox, raised the point, which has been raised many times, about equalising dependant payments with those made to people who have the disease. I stress that the main intention of these schemes is to provide financial support to those living with certain diseases and to help them deal with the issues that illness brings. It is right that funding is targeted where it is needed most. Around 90% of payments made under both schemes are paid to those who have the diseases covered by these schemes. The noble Baroness, Lady Janke, also talked about equalising the payments—I think I have answered that.

The noble Baroness asked about statistics on the level of industrial injuries over the 2010-20 period. We do not have those statistics, but we know that the Health and Safety Executive has had a major recruitment exercise and we have worked closely with it to make sure that as far as possible it has the resources it needs to do its job. I am happy to write to noble Lords and to place a copy in the Library to outline that in much more detail.

I thank all noble Lords for their helpful contributions to this debate. In a particularly difficult year, it is right that we continue to prioritise financial support for people diagnosed with mesothelioma and other dust-related diseases and recognise, as we have already said, that people with these prescribed diseases will be more vulnerable to respiratory viruses such as Covid-19. In addition to the compensation awarded through the scheme before us today, the Government also provide specific support for those who have industrial injuries or diseases through the industrial injuries disablement benefit, a payment based on the level of disablement. Other state benefits may also be available to claimants to cover other needs, such as income replacement and the costs arising from disability.

Now, more than ever, support is vital. While these statutory schemes deliver an essential part of the financial support we offer, many other important issues for people with the prescribed diseases have been raised today. That is why we are committed to working with NHS England to improve the lives of people with respiratory diseases. As in previous years, this has been an interesting debate which demonstrates this House's continued interest in and commitment to ensuring that the necessary support is available to these individuals. I hope that I have dealt with the questions that have been raised, but, as I promised, I will write to all noble Lords separately to make sure that all the questions have been answered. I commend the uprating of the payment scales for these schemes and ask for approval to implement it.

Motion agreed.

Pneumoconiosis etc. (Workers' Compensation) (Payment of Claims) (Amendment) Regulations 2022

Considered in Grand Committee

6.52 pm

Moved by ***Baroness Stedman-Scott***

That the Grand Committee do consider the Pneumoconiosis etc. (Workers' Compensation) (Payment of Claims) (Amendment) Regulations 2022.

Motion agreed.

Committee adjourned at 6.52 pm.