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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

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House of Lords

Friday 11 March 2022

10 am

Prayers—read by the Lord Bishop of Leeds.

Beyond Brexit: Policing, Law Enforcement and Security (EUC Report)

Motion to Take Note

10.06 am

Moved by ***Lord Ricketts***

That this House takes note of the Report from the European Union Committee *Beyond Brexit: policing, law enforcement and security* (25th Report, Session 2019–21, HL Paper 250).

Lord Ricketts (CB): My Lords, we are debating today one aspect of the security of the United Kingdom: the state of law enforcement and judicial co-operation with the EU. But we are doing so against the backdrop of Russia mounting the most serious aggression that we have seen in Europe since the Second World War. Every day, we see new horrors on our television screens. I regret personally that we have had so little time to debate these momentous events in this House, with just one debate in the last two weeks, but they put everything else into perspective and I believe that they are relevant to the debate that we are having today.

More than ever, we need both close co-operation with our neighbours to keep our own citizens safe and effective arrangements to enable desperate refugees to be able to come safely to this country. These objectives are intrinsically linked, as has been shown by the tensions with the French authorities over recent days over what I regard as the wholly inadequate arrangements that have been made in and around Calais for the reception of desperate Ukrainian families. Given the number of traumatised Ukrainian citizens now leaving the country, this flow of refugees is bound to continue for months, or conceivably years. We need to be working well with our EU partners if we are to avoid damaging the climate of confidence that is so important for good law enforcement and judicial co-operation.

To turn to the specific issues that we are debating today, our report formed part of a suite of reports by the European Union Committee. As a first-time chairman of a committee, I am most grateful for the wise counsel and friendly support that I received at all times from the noble Earl, Lord Kinnoull. The Security and Justice Sub-Committee must be one of the few in your Lordships' House that never met in person. We came into being in April 2020 and had an entirely virtual existence until we were disbanded in March 2021, having published this report. I am grateful to all members of the committee, who adapted with great good humour to the oddities of the Teams environment. I am also grateful to our clerk team, about whom I will have a little more to say in winding up.

Our committee report was based on an intensive three-month scrutiny that we did at the end of 2020 and the beginning of 2021. We heard from a range of expert witnesses and from the Home Office Minister Kevin Foster, which was very helpful. We drew on a wealth of evidence that we had amassed during the year in which we watched the negotiation of the trade and co-operation agreement with the EU. We had a most helpful session with the then Home Office Minister of State James Brokenshire. I wish to put on record our thanks for his unfailing courtesy and support of our work in the committee, together with that of Home Office officials.

To turn to the substance of the report, my first point is that we welcomed the fact that an agreement had been reached which avoided an abrupt end to the years of effective co-operation that British policing had enjoyed with EU counterparts. We were very conscious when we produced the report that we were just at the start of implementing a series of complex and often novel measures and that it would be vital to scrutinise how they worked out in practice. I noted from the Government's response to our report of 15 June 2021, for which we were grateful, that

"the indications so far are that, in general, the new arrangements are working well in practice."

A similar comment came in the agreed statement from the first meeting of the Specialised Committee on Law Enforcement and Judicial Cooperation of 19 October 2021, which said that

"overall, implementation … had gone well and that the agreement was operating effectively."

Those are somewhat lapidary comments and I see the main purpose of today's debate as giving the House more detail on how these various measures are working out in practice. I know that other noble Lords more qualified than me will delve into individual issues such as the successor arrangements to the European arrest warrant and the important area of EU-UK family law, which is vital to the lives of so many of our citizens, so I will concentrate on three other themes.

The first is the UK's access to the EU databases and alerting systems, which British police relied on so heavily prior to our withdrawal. That is dealt with in detail in chapter 2 of our report. We welcomed the agreement that allowed the EU to continue access to the Prüm database of fingerprints and DNA. We noted, however, that this was subject to an

"evaluation visit and pilot run"

conducted by the EU into the UK's handling of Prüm data. The deadline for this was 1 September last year; it was then extended to June 2022. Perhaps the Minister could assure us that the UK will meet all the requirements for continued access to Prüm, which remains vital, as I understand it, for crime scene investigations in this country.

One other important aspect is whether and how the UK will mirror changes made by the EU to the Prüm system. I quote paragraph 82 of our report:

"The Government told us that it will be a matter of 'choice' whether or not it remains aligned to EU legislation as it evolves."

This is not a theoretical point. The Commission has already brought forward a regulation that would substantially reform the way the Prüm system works,

[Lord Ricketts]

including expanding it to cover facial recognition. Depending on how the Commission's draft fares, the Government could soon be faced with that choice on whether to align. A process for doing that is set out in the trade and co-operation agreement, but will the Minister commit that the Government will keep the European Affairs Committee and the Justice and Home Affairs Committee closely in touch with their thinking, given the consequences of a decision not to align as the Prüm system evolves?

Our report welcomed the provisions in the trade and co-operation agreement for continued access to crime scene data through ECRIS and to passenger name record data on people arriving on flights from the EU, although I think that we are still operating under a derogation on passenger name recognition, which cannot go on indefinitely. However, we had more serious concerns about the alternative arrangements in place for the UK replacing those that were available under the SIS II—Schengen Information System II—information-sharing system. That was the system that UK police consulted over 600 million times in 2019. We concluded that the loss of SIS II by UK law enforcement

"leaves the most significant gap in terms of lost capability."

The Government told us that they would be relying instead on the Interpol I-24/7 database. That requires EU member states to enter their alerts into both SIS II and the Interpol system, the so-called double-keying arrangement. Much therefore depends on the continued willingness of individual police officers to undertake that extra work. A recent report by the Centre for Britain and Europe at the University of Surrey, titled *Border Trouble?*, based on a lot of interviews with current law enforcement officers, contained some worrying evidence. One officer was quoted as saying that there were

"big question marks about whether Interpol would, over time, continue to give us the amount of detail as we had under SIS".

Another commented that

"there is a huge absence of information that we previously relied upon".

Could the Minister tell us whether the UK is indeed continuing to get the same volume of alerts and information from EU partners through the I-24/7 system? Could she also update the House on progress in ensuring very rapid transfer of information from I-24/7 to the police national computer? We were told that this would happen

"via policing systems within minutes … and … at the border within 24 hours",

but for Border Force officials 24 hours feels like quite a long time in terms of delay in access to data. That covers the points that I wanted to make on access to systems.

Secondly, on data handling, the Home Office's track record on handling personal data is frankly not flawless. Yet the importance of maintaining the highest possible standards is apparent from the fact that the whole of our justice and law enforcement co-operation with the EU could be put at risk if there was a "serious and systemic deficiency" in the protection of personal data by either party. Now that the UK is no longer a member of the EU, we are held to an even higher standard of personal data protection than when we were a member, because we do not have the so-called national security carve-out available to EU member states. The actions of the ECJ in twice knocking down EU/US data protection agreements shows the risks. Could the Minister assure us that the UK continues to be fully in line with the EU's requirements for data handling for law enforcement?

Thirdly and finally, I turn to the state of the UK's relations with Europol and Eurojust. We noted that the agreement enabled us to continue a close working co-operation, as the US and Canada have. I see that we now have in place a working arrangement for UK liaison officers. What we have lost inevitably is any role in the strategic management and administration of the two organisations. Could the Minister update us on how effective the co-operation with Europol and Eurojust is turning out to be? It might also be interesting for the House to hear what the impact on Interpol co-operation is in relation to the current sanctions on Russia, given that Russia is of course a member of the Interpol system.

That brings me back to the most important issue for our debate today: the continued scrutiny that will be necessary on practice as it evolves as these measures are used. I hope that the Government will provide the necessary information for that to both the European Affairs Committee and the Justice and Home Affairs Committee, so ably chaired by the noble Baroness, Lady Hamwee. The trade and co-operation agreement offers a set of arrangements that should in principle give us a good level of co-operation, but so much depends on not words on pages but operational contacts between individual law enforcement colleagues and the continuation of the habits of close working formed while we were a member. The climate of confidence in handling related issues such as refugees is also relevant. The challenge will be to maintain that level of practical problem-solving and good will in the years ahead. I beg to move.

10.17 am

Lord Bilimoria (CB): My Lords, the security of the country always has been and always must be the number one priority of any Government, so I welcome the European Union Committee report, *Beyond Brexit: Policing, Law Enforcement and Security*.

Clearly, the trade and co-operation agreement that we negotiated with the European Union is very basic. It is almost the extreme opposite of the recently concluded Australia free trade agreement, which is probably the most comprehensive, wide-ranging, in-depth, modern free trade agreement in the world, covering every aspect. With the TCA, we have a lot to build on.

Part 3 of the TCA on law enforcement and judicial co-operation in criminal matters sets out the detailed, complex arrangements enabling effective co-operation on a range of policing and criminal justice measures. The committee welcomed a lot of the provisions, including the continuation of sharing passenger name record data, continued UK access to EU databases covering fingerprints, DNA and criminal records—these are absolutely essential—and the commitment to the

rule of law and the European Convention on Human Rights. All of this is fine, but here is the big "but": the agreement does not provide the same level of collaboration that existed when the UK was a member state. The best example is that involvement in Eurojust and Europol will no longer include a role in their overall management or strategic direction.

One of the most significant consequences of the UK now being a third country is the loss of access to the Schengen Information System—SIS II. The real-time access that it provides to data, persons, objects of interest, wanted people and missing people was completely and rightly emphasised by the committee. The effectiveness of alternatives comes nowhere near to it. Can the Minister confirm that that is the case and that the Government accept it? Again, the committee rightly said that lots of areas need to be kept under review.

Brexit has been concluded and yet it still comes up time and again, not least because the Northern Ireland protocol still needs to be resolved. The former Canadian Prime Minister Pierre Trudeau once said to his American neighbours:

> "Living next to you is in some ways like sleeping with an elephant. No matter how friendly and even-tempered is the beast … one is affected by every twitch and grunt."

Whether we like it or not, the European Union is by far our biggest trading partner, right on our doorstep, next to us. Having a defence and security relationship is absolutely crucial. The 2021 integrated review of security, defence, development and foreign policy barely mentioned the European Union. Will the Minister confirm that?

As president of the CBI, I would like to focus on the national cyber strategy. I recently chaired a meeting with GCHQ. Why are the Government not doing more to promote the fantastic free resources that exist from GCHQ to help businesses of all sizes make the right decisions and be more prepared and resilient when it comes to cybersecurity? Cyberattacks are devastating, and now, with the Ukraine situation, it is even more likely that we will be hit by them. Will the Government do more to promote these amazing free-of-charge resources?

To conclude, I remember that during the Brexit negotiations I spoke to one of our most senior police officers in the country. This individual said, "If people realised what is at stake when it comes to security in our relationship with the European Union, they would be very concerned." The Ukraine situation has now exacerbated this. We now need to build on our TCA and on the security relationships we have with the EU. The one word which stood out for me in the pandemic was "collaboration"—it is collaboration that works.

10.23 am

Baroness Goudie (Lab): My Lords, I thank the noble Lord, Lord Ricketts, who chaired this committee in a masterclass way throughout Covid. I also thank the clerks and the technical staff of this House, because without them this report would not be here today. We had a marvellous period of time when we did not see each other but no meeting was missed and there were no real technical problems. I thank everybody who assisted us on that.

The Lugano Convention is not exclusively an EU measure. On the contrary, it creates common rules regarding jurisdiction and the enforcement and recognition of civil, commercial and family judgments across the EU and most of EFTA. It was concluded in 1988 as an international agreement and was given effect in the United Kingdom in 1991. However, the United Kingdom left it with Brexit. It can rejoin the convention, but only with the unanimous agreement of all the parties.

I support the United Kingdom's intention to seek membership, but it is most unfortunate, to say the least, that the Government waited until April 2020. Accordingly, there has been an entirely avoidable hiatus between the end of the Brexit transition period and the safety net provided by the Lugano Convention and reciprocal enforcement. As the Government acknowledged, this means that issues relating to jurisdiction, recognition and enforcement are becoming more complex, in particular in child abduction cases and difficult family law and maintenance cases, and when one partner or another absconds, or both live in a different place and the children are here.

I have two questions. First, what are the reasons for this damaging delay? Secondly, what steps are the Government taking to engage with the EU, and in particular Denmark, to reach a satisfactory and speedy resolution? In the circumstances we have seen in the last few weeks, it is even more important that we come to a conclusion and that it is accepted.

10.25 am

Lord Anderson of Ipswich (CB): My Lords, this country can be proud of its historic contribution to the EU's joint effort on policing, law enforcement and security. We were not, of course, in at the start of everything. However, we can take credit for a great deal: the policy and legislative framework for countering terrorism, borrowed largely from our own; the reinvention of Europol as a vehicle for intelligence-based policing; the repurposing of Eurojust to accommodate our distinctive prosecutorial systems; the huge contribution made by our courts to resolving conflicts of laws under the Brussels convention and regulation; and the promotion of legislation—notably in relation to the use of data for crime-fighting—where UK influence in the Council and the Parliament gave much-needed emphasis to operational imperatives over some of the more academic notions of privacy.

All this provides a good example of the wider truth, perhaps better understood abroad than at home, that EU membership was not something sinister that others did to us but rather an effective vehicle for the export of British values and traditions to a reunited continent and a wider world. To be fair to the promoters of Brexit, the unravelling of police and judicial co-operation rarely featured in their vision of the sunlit uplands. The debate over the Protocol 36 opt-out had already convinced Theresa May and most others in government that the country's security was better served inside than outside these EU mechanisms. Part 3 of the TCA was thus, to a large extent, an exercise in damage limitation with few, if any, gains to be expected. It is some comfort that, subject to anything the noble

[Lord Anderson of Ipswich]
Lord, Lord Evans of Weardale, will say, co-operation between intelligence agencies will continue undiminished outside EU mechanisms.

I had the privilege of serving on the sub-committee that produced this report, chaired with deftness, humour and virtual conviviality by the noble Lord, Lord Ricketts, and serviced by our excellent staff. The litany of committees, contact points, liaison officers and double-keying described in its pages seems to me at least a poor exchange for the seamless operation and strategic leadership that we used to enjoy. Online crime in particular knows no borders, and policing needs to reflect that as far as possible, both at home and internationally. However, while there were predictable disappointments in the TCA, there were negotiating successes too. We have a solid base for closer integration in the future, although that integration is unlikely to be on British terms and its speed will no doubt be a function of political temperature as well as operational need.

I end with a few questions. Can the Minister tell us how the numbers of those being surrendered to the UK are holding up, given the loss of access to SIS II at the end of 2020 and the unwelcome fact that 12 member states, comprising more than half the population of the EU, have declared that they will be invoking their constitutional rules as a reason not to surrender their own nationals to the UK, or to do so only with their consent? Does the Minister know when the EU might, in the interests of its own people as well as ours, withdraw its short-sighted bar to UK accession to the Lugano Convention?

Lastly, Part 3 of the TCA depends on the maintenance of high standards on both human rights and the protection of personal data. Brussels is no doubt looking carefully at two recent consultations, by the Ministry of Justice on human rights reform, and by the DCMS, entitled *Data: a New Direction*. On data, the Centre for European Reform in a report of 15 November last year wrote:

"There are three scenarios, any one of which could kill the EU's adequacy decision: the European Court of Justice … ruling that the UK's intelligence gathering should have prevented the Commission granting adequacy; the Commission choosing to withdraw adequacy because the UK diverges too far from the GDPR in the future; or the UK unilaterally deciding to allow seamless transfers between the UK and third countries, which would probably compel the Commission to revoke the adequacy decision."

Some of the proposals in the DCMS consultation seem in that context rather close to the bone. So my final question is: what assurance can the Minister give the House that Part 3 of the TCA will not be placed in jeopardy by the weakening of current protections for data and for human rights?

10.30 am

Lord Davies of Gower (Con): My Lords, I begin by congratulating the committee on producing such a detailed and operationally relevant report that highlights the essential areas of operational policing, particularly where this concerns international cross-border working. I realise that we have moved on, but I make no apology for returning to the issue of the Schengen Information System, which concerned me greatly during the months leading up to the trade and co-operation agreement in December 2020.

There can be no doubt that, in adopting the Interpol database in lieu, the UK reduced itself to accepting a far less efficient and effective real-time system. As the report points out, the effectiveness of the Interpol system relies heavily on the willingness of EU states to additionally upload the same information on to it that they circulate on the SIS. Indeed, one senior police officer remarked to the committee that this was a significant loss of capability in terms of access to data.

It was also interesting to note the need to make technical improvements to the UK system so that the Interpol system is available to front-line law enforcement in minutes, as opposed to hours. I am therefore very keen to hear from the Minister what action has been taken to improve those technical issues and what information, if any, is available to identify any loss of effectiveness which may have been encountered by the surrendering of the SIS.

It was encouraging to note the warm remarks from law enforcement on the agreement on Prüm, allowing the exchange of information in relation to DNA, fingerprints and other essential data. However, future alignment in relation to Prüm is less clear.

As someone who worked in organised policing for many years in eastern Europe, I was saddened to note the remarks on the UK's future role in Europol. Professor Mitsilegas remarked that he did

"not think it will be the same, which it is a great shame, because Europol is a great example of the UK's influence in justice and home affairs",

a

"model of intelligence-led policing that has largely been exported from the UK to the EU, and now, sadly, you are a third country."

Another witness also

"regretted the diminished influence the UK would have as a third country in Europol",

saying:

"This is a clear demonstration of that operational downgrade, and it is particularly unfortunate in the context of Europol, because the UK has played such a significant role in the future direction and intelligence-led policing focus of Europol."

Mr Rodhouse of the NCA highlighted in particular that the UK would not

"be part of the Europol management board in the future"—

something that I bitterly regret, and I support all those comments.

Can the Minister give me and, indeed, the House an assurance that while we still have the UK Liaison Bureau, our relationship with Europol will be even further improved as we head into uncharted territory with issues on our borders with organised criminality as a result of the implications of the war in Europe and refugees fleeing hostilities?

This is an excellent report and gets to the nub of the matter in relation to problems raised as a result of our exiting the European Union. I am pleased to have been able to highlight just a couple of them and look forward to what the Minister has to say in reply.

10.33 am

Baroness Hamwee (LD): My Lords, although time is short, I want to acknowledge the splendid work of all the committee staff. It is invidious to pick out one, but I shall be invidious. I have become much more aware than I used to be how much a committee relies, without knowing it, on its committee assistant—in our case, the wonderful Amanda McGrath, whose title is now committee operations officer of the Justice and Home Affairs Committee. We also had a splendid chairman. As you would expect, the noble Lord, Lord Ricketts, deployed his powers of diplomacy and ability to find forms of words that left everyone satisfied.

To go straight to the impact of one aspect of legal procedure post Brexit—already referred to, but it merits emphasis—I give three examples. Pre Brexit, an English claimant involved in an Italian road traffic accident would have issued his claim against the motor insurer out of the English courts. Now, he might get a judgment that the Italian courts will not enforce. Following an accident at work in Sweden with Danish defendants, there is a good argument for jurisdiction in England, and the victim, who suffered head and lower limb injuries, would not need to travel, but again, there are enforcement problems because of procedural rules on the causation of injury in Denmark. Thirdly, the variation of an English maintenance order following a divorce five years ago is in court because of the uncertainty in the UK about the law regarding jurisdiction for maintenance claims. These three are all current examples of the time, money and emotional energy that is expended, and the involvement of the higher courts sorting out jurisdiction problems.

Well before we left the EU, legal practitioners foresaw problems for their clients—it is important to emphasise this: this is not a lawyer's point—arising from the loss of the Brussels regulation, particularly in the areas of family law, child maintenance, international child abduction, divorce and personal injury. At the time of the negotiations, the Government, in the person of the then Advocate-General for Scotland, were sanguine about the workability—the user-friendliness, if you like—of what our report describes as

"a more complex and less effective web of international conventions and instruments."

That web includes the Hague conventions—better than nothing, but far better is the Lugano convention, but that requires all current members to agree to UK membership. One member is the EU as an entity, not the member states; it has not agreed.

I wrote to the chairman of the relevant committee of the European Parliament before the decision but when it seemed to be coming over the horizon, committee to committee, urging its support for EU acceptance, as the citizens of all EU member states are affected, as much as UK citizens. He replied, quoting the Commission, that it recalled that

"the Lugano Convention supports the EU's relationship with third countries which have a particularly close regulatory integration with the EU."

Regulatory integration: this is the block.

The Brussels office of the UK law societies, to which I am very grateful, said that it "can't complain about the MoJ's commitment", but that the position is affected by the state of the relationship between the UK and the EU, in particular, regarding Northern Ireland. Other noble Lords have referred to that relationship. Apparently, it thought that when France no longer holds the presidency of the Council, the Czech and Swedish presidencies which are to come will be more amenable.

What a sorry position. It is individuals who suffer. I know that this is not a Home Office responsibility, but, answering for the Government, I hope the Minister can comment in a positive fashion.

10.38 am

Lord Evans of Weardale (CB): My Lords, I congratulate the committee on a very insightful and positive report. I also give credit to the Government for the trade and co-operation agreement, which has avoided some of the most acute risks that came about to information sharing through the departure from the European Union. In particular, I cite the European arrest warrant, which was one of the most important of the measures for international co-operation, and certainly had national security benefits, as well as routine policing benefits. The new arrangements at least ensure some hope that that sort of arrangement can continue.

I also give a lot of credit to the outcome with regard to PNR data, given that, in my view, the EU has always had a rather disproportionate focus on data protection issues in comparison with the many other national and public goods that need to be considered.

Nevertheless, it is quite hard to see an upside in the overall arrangements as they now exist in comparison with the ones that were previously in place. For instance, I note the creation of the national contact point for policing liaison internationally, which has a strange similarity to the arrangements that were in place before 2009 when Europol was fully integrated into the EU structures.

The report does not address national security co-operation and information sharing at the intelligence level for the clear and straightforward reason that intelligence sharing is not a Community area of competence. Again, I give credit to successive Governments for ensuring that intelligence co-operation stayed outside the European Community's competence. There were pressures in the other direction, but successive Governments were robust in ensuring that we maintained control of our national security; for a variety of reasons, that has turned out to be exactly the right decision. The UK therefore remains within the non-EU intelligence-sharing arrangements in Europe. I am sure that this goes a long way to ensuring that relevant national security information that is important to us but also important to our European friends will continue to flow. The UK has always been an active and influential participant in those structures; I am sure that that continues to be the case.

The area that continues to concern me is that we are no longer a voice in policy development in Europe. For instance, if you look at the PNR arrangements, the lobbying of the UK some years ago was an influential part of those structures and agreements being implemented. There is therefore a heavy responsibility on the Government to ensure that

[Lord Evans of Weardale]
we continue to make the case as effectively as we can; that we are forward-leaning in our engagement with the European structures; and that we use the TCA as a foundation on which we can continue to build because there is no question but that our security in the United Kingdom is heavily dependent on our secure environment and neighbourhood, and that we need to ensure that our security, allied to that of our European neighbours, is as well integrated as it can possibly be.

10.42 am

Lord Hannay of Chiswick (CB): My Lords, the report we are debating, so well introduced by my noble friend Lord Ricketts—I was his predecessor but three as chair of that sub-committee—may be a bit dated, unfortunately like most of the reports we debate these days, but it brings home one very salient point: our country's internal security is closely bound up with that of the rest of Europe, and the battle against serious international crime will be won only if we co-operate closely together. That has been the view of this House since the joint reports produced by the committees chaired by the noble Lord, Lord Bowness, and me in 2013-14. I hope that the Minister will confirm that this remains the Government's view, now encapsulated in the welcome internal security provisions of the trade and co-operation agreement with the EU.

Of course, we have lost quite a bit of that co-operation along the way. Other noble Lords have referred to what we have lost: full membership of Europol and Eurojust; automatic access to the Schengen Information System; and, most damaging of all, participation in the European arrest warrant. There are quite a few disbenefits there for the new Minister for Brexit Opportunities to reflect on. The fact that several member states of the EU will not extradite to us indicted criminals who are wanted for committing crimes here and vice versa, which was provided for by the EAW system, is a real loss. Can the Minister say how many cases of a refusal to extradite have been experienced in the first year of the operation of the new arrangements and how well the replacement arrangements are working, in particular with Ireland? In that context, how will the Government handle the fact that Ireland is admitting Ukrainian refugees without a visa whereas we are insisting on them having a visa but we are both in a common travel area? How will that work?

There are also two important loose ends waiting to be tied up if the TCA package is to be complete. They are both currently covered by temporary interim arrangements, one of which cannot be prolonged beyond the middle of this year. The first, as several noble Lords have mentioned, are the Prüm provisions for exchanging vital crime-fighting DNA and number-plate information. The second is the passenger name recognition system for airline passengers, to which my noble friend Lord Evans referred; when I chaired the sub-committee, we played an active part in pressing the EU to bring these provisions into force. Can the Minister tell the House what the state of play is on tying up those two loose ends? Can she confirm that it is the Government's firm determination to see the process successfully completed?

This leaves perhaps the trickiest aspect of all: how to ensure that effective co-operation continues as the EU's law enforcement machinery and our own evolve. The JHA machinery is not static; nor are the activities of the international criminals whose aim is always to keep one or more steps ahead of the law and its enforcement. How is our co-operative machinery, with several moving parts, to be handled in future? Are the processes provided for under the TCA, with its cat's cradle of joint committees, adequate and prepared to take the strain and ensure that we do not just drift apart through inadvertence? Improvised co-operation on the spur of the moment during some pressing crisis is surely not going to be the best way to achieve that. Can the Minister tell us how this aspect is being provided for and what the possible consequences would be if the UK's overall data-processing arrangements caused us to be considered no longer adequate? The noble Lord, Lord Anderson, referred to that.

Finally, how do the Government intend to keep Parliament—in particular your Lordships' European Affairs Committee, on which I have the honour to serve—informed and consulted about what is going on in this vital area?

10.47 am

Lord Paddick (LD): My Lords, I thank the European Union Committee for its thorough report on the impact of Brexit on policing, law enforcement and security. As noble Lords might expect, I intend to concentrate on crime and policing. Quite remarkably, in the five minutes she was given, my noble friend Lady Hamwee comprehensively covered the civil law implications.

There is good news and some worrying news. I remember that, at a meeting of the All-Party Parliamentary Group on Policing before Brexit, we were briefed by the senior officer responsible for Brexit at the National Crime Agency on the likely consequences of Brexit for policing and security. He gave a very depressing account. So, as I say, there is some good news and some worrying news as far as the comparison with what was predicted is concerned. In particular, the continued access to DNA, fingerprint and vehicle data through Prüm—it is subject to a pilot; I share the concern of the noble Lord, Lord Ricketts, about when that might be completed—is something that we might not have expected to keep.

Although the Government have secured an extradition agreement to replace the European arrest warrant in under a year, where it took Norway and Iceland a decade, as anticipated it is only a partial replacement. On the replacement, I am somewhere between the enthusiasm expressed by the noble Lord, Lord Evans of Weardale, and the dismay of the noble Lord, Lord Hannay of Chiswick. A total of 10 EU states have confirmed that they will not extradite their own nationals to the UK, and two more will extradite only following a political decision to extradite, rather than a wholly judicial one, as the noble Lord, Lord Anderson of Ipswich, mentioned. Concerns when we were in the European Union about a lack of protection for UK citizens subject to European arrest warrants appear to be made worse by the new arrangements. A theme during my remarks will be whether noble Lords should

be delighted that things are not as bad as we thought or whether they are better than expected. However, I agree with the noble Lords, Lord Evans of Weardale and Lord Anderson of Ipswich, that security service co-operation has always been on a bilateral basis, and will continue to be, and will be largely unaffected by Brexit.

Going back to the arrest warrant, it appears that EU courts could refuse to extradite suspects to the UK if they are concerned about the UK judicial system, but UK courts could not do the same if they had concerns about the judicial system of an EU state, under the terms of the new agreement. It is clearly a second-class arrangement compared with the European arrest warrant.

As predicted by the senior officer from the National Crime Agency, involvement in Europol and Eurojust has gone from the UK being in the driving seat on strategy and priorities for these organisations to being in a similar position to non-EU members of the EEA; that is, being involved but not participating in such decisions.

Again, as anticipated, the UK will no longer have access to the Schengen Information System, SIS II, and the workaround sounds worrying. Instead of details of wanted and missing persons, terrorism suspects and other alerts being instantaneously available to operational law enforcement officers through the police national computer, the new arrangements rely on EU states double-keying the information into the Interpol I-24/7 system, as the noble Lord, Lord Ricketts, mentioned. Although work is in train to establish an automated system to transfer the data from the Interpol system to the PNC in the UK, relying on EU states to invest significant resources to double-key data into a system that they do not need seems a big risk. Even if they see the need, if the UK is to reciprocate by entering data into the Interpol system, there is no guarantee that they will do so, or do so in 100% of cases, and within a reasonable timeframe, when they have access to the same data via SIS II.

There is also the overarching risk around data adequacy. Although the agreement with the EU is not dependent on data adequacy decisions, it can be suspended if, as the noble Lord, Lord Ricketts, said, either party demonstrates a serious and systematic deficiency in respect of the protection of personal data, including where this has led to a

"relevant adequacy decision ceasing to apply."

Again, as anticipated, as a third country the UK is held to a higher standard on data protection than a member state, as other noble Lords have said, but no longer able to benefit from the national security exemption which applies to EU states. In that respect, the use of bulk data by the security services may be of concern, and concerns have been raised in the past about the handling of data by the Home Office. The European Data Protection Supervisor has published an opinion on the trade and co-operation agreement which expresses concern about some of the data protection safeguards in this area.

In relation to data protection, perhaps more than any other aspect of Brexit, despite leaving the EU, the UK will have to comply with current and future EU regulation, or risk losing access to data that is vital to our security and the effectiveness of our law enforcement agencies.

Some of the anticipated devastating impacts of Brexit on the security of the UK have been overcome in some respects, mitigated in others, and are in a precarious state in relation to some other important issues. The need for close and continued parliamentary scrutiny is clear, and this report is an important start to that process. However, as the noble Lord, Lord Ricketts, has said, much depends on the operational working and co-operation of law enforcement officers. British police officers have always had a can-do attitude, but I remain concerned that EU-UK agreements may yet thwart UK law enforcement officers' willingness to achieve pre-Brexit levels of performance.

10.55 am

Lord Ponsonby of Shulbrede (Lab): My Lords, I thank the noble Lord, Lord Ricketts, for his introduction to this report. It is a comprehensive report, even though it is a year old. The introduction of his speech today was particularly appropriate, putting the details in the report into the wider context of the terrors and horrors that we are seeing in eastern Europe as we speak.

This area of concern was not necessarily one which received the most headlines when the Brexit deal was being negotiated and agreed, but as we have heard today, it is crucial, and stark warnings were given at the time about the challenges that it would create. The noble Lord, Lord Anderson, described the TCA as a damage limitation exercise, and the noble Lord, Lord Paddick, said that it was not as bad as it might have been.

Although this report and its subjects can appear to be quite technical, they are vital for front-line policing and for keeping people safe. Neil Basu, while head of counterterrorism policing, warned that none of the replacements for lost EU tools was as good as the security protocols that we had in place. I was struck by the quote in paragraph 65, from Assistant Chief Constable Ayling, who describes the arrangement for Interpol access to replace SIS II as one that

"falls a long way short of the benefits provided by SIS II. However, it is sufficient, in that it enables us to discharge our responsibilities effectively, and it delivers a mechanism whereby we can cooperate."

It is a difficult reality if we have to accept what is sufficient rather than what is optimal.

I welcome the deal that was reached. The report outlines some of the strengths of the co-operations that it is has allowed us to replicate, in areas such as passenger name records data and criminal records data. The report was published this time last year, so this is an opportunity for the Minister to update the House on how the negotiations have proceeded since then. The simple headline concern is that the tools we have lost access to—namely, SIS II—have left law enforcement trying to work with slower, more cumbersome systems.

On Interpol, can the Minister give an update on the Government's success in persuading European partners to double-key information, which means duplicating work, as the noble Lords, Lord Ricketts, Lord Paddick and Lord Davies of Gower? The Committee said:

[Lord Ponsonby of Shulbrede]

"We did not receive any clear evidence from the Government on how it planned to secure such commitments from EU member states to do so."

Also on Interpol, can the Minister give an update on the technical improvements which are under way to reduce the time of uploading Interpol notices on to the police national computer?

Last month, an update on the I-LEAP programme was published by the accounting officer for the Home Office. The update says that:

"The I-LEAP programme will provide new alerting digital platform capabilities to police and border officers in the UK, and to their equivalents in partner countries, enabling increased opportunities at the national border or within country to identify persons and objects of interest to law enforcement agencies … In the longer-term I-LEAP will also enable real-time bilateral alert exchange with key international partners who share the UK's interest in further strengthening alert-sharing capabilities."

The question for the Minister is: how long is "in the longer-term" in this context?

On feasibility, the I-LEAP update states that the Government's proposal is

"to conclude one bilateral agreement with another State every year from 2023 at the earliest".

It goes on to say that the

"I-LEAP programme is heavily dependent upon the UK securing bilateral agreements with other countries and that this may impact the realisation of the programme's benefits."

Does the Minister believe that the Government will reach that target? How is preparation going and have bilateral talks started yet?

Moving on to civil and family questions, I thank my noble friend Lady Goudie and the noble Baroness, Lady Hamwee, for setting them out in more detail than I can do now. Basically it is about the application to the Lugano Convention. I understand that we are remaining a member of the Hague convention. What is the position now? My noble friend Lady Goudie and the noble Baroness, Lady Hamwee, asked about Denmark and the EU with regard to their reaction to our application. I shall just mention that, as I have said in other contexts, I sit as a family magistrate and one of the things I do is reciprocal enforcement of maintenance orders. This is specifically when we are trying to enforce maintenance orders within the EU and outside it. That work is continuing, but it is a bureaucratic process, and I look forward to the Minister's reassurance. It certainly should not get any more complicated because it is very complicated at the moment to do procedural enforcement. I thank the noble Lord, Lord Ricketts, for his report.

11.02 am

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, I join noble Lords in thanking the noble Lord, Lord Ricketts, for securing this debate. I also thank those who contributed to the former European Union Committee's thoughtful and insightful report *Beyond Brexit: Policing, Law Enforcement and Security*, which was published in March 2021. I echo his words on Ukraine. It is important that we work with our EU partners, particularly at the moment, and that we are a united force in efforts to support Ukraine and to support the refugees fleeing from Ukraine. I updated the House yesterday on the number of visas issued, which as of yesterday morning was 1,305. That figure is going up rapidly, which is a good thing.

The Government responded to the report at the time, but it is welcome that time has been found to discuss these important matters more fully. The report was informed by the work conducted by the Security and Justice Sub-Committee, which the noble Lord, Lord Ricketts, previously chaired. I pay tribute to the breadth of expertise on that committee, which has been replicated in its successor, the Justice and Home Affairs Committee.

The Security and Justice Sub-Committee's work was instrumental in supporting parliamentary scrutiny as we sought to consider, and ultimately negotiate, our new relationship with the EU on law enforcement and criminal justice matters. To echo the words of the noble Lord, Lord Ricketts, and others, I am very pleased to be able to speak to this as it informs a lot of the aspects of my work and it has not been much debated in Parliament. Before we start, I also want to echo the points made by the noble Lord, Lord Evans of Weardale, on national security and intelligence sharing. The decisions about that are outwith the TCA and the EU, and that is a very good thing.

I will start with law enforcement and criminal justice in the TCA before responding to some of the points made during this debate. On the deal we secured, the Government were very clear in wanting to deliver a security deal with the EU that gave our law enforcement the tools and the co-operation it needs to keep the public safe. That is what we delivered. The UK-EU TCA was signed in December 2020 and was implemented in domestic law via the European Union (Future Relationship) Act. Part 3 of the TCA established our new law enforcement arrangements, and they are the terms we have been operating under since 1 January 2021. I think noble Lords will bear in mind that this period coincided with a global pandemic, so in some ways time will tell better how this is operating because we have been in such an unprecedented environment.

The agreement was unprecedented for the EU in terms of co-operation with a third country, and through it we were able to secure a high level of co-operation on key capabilities, including: streamlined extradition arrangements, arrangements with Europol and Eurojust that reflect the scale of our contribution to these agencies; arrangements enabling the continued, fast and effective exchange of national DNA and fingerprint data and future exchange of vehicle registration data via the Prüm system; arrangements enabling the fast and effective exchange of criminal records data; and arrangements providing for continued transfer of passenger name record data from EU airlines. We were pleased to see that the report broadly welcomed these arrangements and the co-operation that they facilitate.

The operation of the new arrangements has been discussed positively and negatively in the debate. I am pleased to note that during the first meeting of the Specialised Committee on Law Enforcement and Judicial Cooperation, the UK and EU agreed that overall implementation of the law enforcement and criminal

justice part of the TCA has gone well and that the agreement is operating effectively. For example, the exchange of DNA and fingerprint data continues. Since connecting to the Prüm biometric data-sharing system in July 2019, the UK has received more than 13,000 DNA and fingerprint matches from EU member states. EU member states have collectively received more than 45,000 matches from UK data over the same period. This allows UK and EU law enforcement to progress serious cases where crime scene evidence would otherwise be unidentified, such as in rape and murder cases.

Significant volumes of criminal record data continue to be exchanged between the UK and EU member states, enabling us to better protect the public. Between April and June 2021, we received around 3,500 conviction notifications from EU member states relating to UK nationals. This compares with around 2,500 notifications for the same period in 2020. UK law enforcement and criminal justice partners also continue to co-operate via EU agencies Europol and Eurojust, including on issues such as small boats. The transfer to the UK of PNR data for flights between the EU and the UK continues. Processing of PNR data during 2021 enabled the disruption of several hundred attempts by organised immigration crime groups to facilitate the illegal entry of individuals to the UK on scheduled flights.

Since the committee's report was published, a number of the outstanding issues the committee noted have been resolved. The Partnership Council, the mechanism for supervising and overseeing operation of the TCA, has been established and met for the first time in June 2021. The Specialised Committee on Law Enforcement and Judicial Cooperation has also been set up and met for the first time in October 2021. The agenda and minutes were made available to Parliament and published on GOV.UK.

As foreseen in the TCA, we have signed working arrangements with Europol and Eurojust. These came into effect last year and set out the practical and operational detail of co-operation under the TCA, putting operational co-operation with these institutions on a firm footing for the future. We have also made important progress concerning the evaluation of our DNA and fingerprint capabilities under the Prüm system, as required by the TCA.

While the terms of our co-operation with EU member states may have evolved, shared threats remain ever present. Clearly, Russia's invasion of Ukraine, a flagrant breach of international law and norms, is a stark reminder of that. I hope I have made it very clear to noble Lords that the UK is firmly committed to co-operating with our EU partners on matters of shared security. The TCA puts us in a very strong position from which to move forward.

I turn now to some of the specifics raised by a number of noble Lords, in no particular order. I think the most commonly asked question was about our disconnection from SIS II. The EU took the position throughout negotiations on the TCA that it was legally impossible for a third country outside the Schengen area to participate in SIS II. That means we have returned to co-operating with EU member states via Interpol, as we did before 2015, and bilateral channels, as we have done throughout with other international partners outside the EU.

Having now returned to Interpol channels, we are routinely exchanging information with EU member states on persons of interest, including missing and wanted individuals, and on lost and stolen documents. We are also investing in longer-term technical capabilities to support law enforcement and data sharing. This will further enhance the UK's connectivity to Interpol by providing UK law enforcement with access to Interpol alerts on people in real time.

The noble Lords, Lord Anderson, Lord Ricketts and Lord Paddick, and maybe others, asked about Interpol and double-keying. We are committed to working with the wider international community to ensure that Interpol continues to be an effective tool for law enforcement co-operation. For example, the Government secured commitments at the meeting of G7 Interior Ministers in 2021 to enhance the effectiveness and operational value of Interpol's tools and capabilities.

On the differences between data being available via Interpol versus what was previously possible with SIS II —I think this goes some way to answering the question from the noble Lord, Lord Ponsonby—there is an automated upload of incoming Interpol circulations to domestic systems. Information is available via policing systems within the hour of receipt. If the NCA is notified that a case is urgent, specific alerts can be uploaded to domestic systems more rapidly. As noble Lords touched on, we are also investing in longer-term technical capabilities to support law enforcement data sharing. This will further enhance the UK's connectivity to Interpol by providing UK law enforcement with access to Interpol alerts on people in real time.

On progress on I-LEAP, the first priority of the programme is to further enhance connectivity to Interpol. We recently launched two pilots that are testing I-LEAP's real-time connection to Interpol alerts on subjects of interest in a live environment. Its gradual rollout to UK policing will commence later this year, following the conclusion of the two pilots.

Several noble Lords referred to the new extradition arrangements we have put in place. The agreement with the EU provides for streamlined extradition arrangements based on the exchange of warrants between judicial authorities, similar to the EU's arrangements with Norway and Iceland. They will enshrine key domestic extradition safeguards that were previously not contained in the EAW, or European arrest warrant, framework decision. This includes making it clear that a person cannot be surrendered if their fundamental rights are at risk, if extradition would be disproportionate or if they are likely to face long periods of pretrial detention. We estimate that these new arrangements are functioning well. Since January 2021, arrests on extradition requests between the UK and the EU and vice versa have continued, and cases are proceeding through the courts.

On extradition disruption, there are some very specific issues concerning a handful of member states' operation of the new extradition arrangements. These issues have

[Baroness Williams of Trafford]
largely been resolved. Where this remains live with one member state, we continue to engage to resolve this as swiftly as possible.

The noble Lord, Lord Anderson, asked about bars on extradition of own nationals. They are a common feature of arrangements outside the EAW, which neither the UK nor the EU sought to retain during the Brexit negotiations. That is why the TCA enables countries with a relevant fundamental principle or practice of their domestic law to refuse to extradite their nationals to face trial or serve a sentence.

Through the TCA we have ensured that alternative paths to justice are available for those who want to face trial. The agreement provides for a mechanism whereby a person could be extradited to the UK, face trial then return to their home country to serve their sentence.

The noble Lord, Lord Hannay, asked about statistics on this. The NCA, the National Crime Agency, is responsible for the collation and publication of data relating to extradition requests to and from the UK and EU member states, and it publishes the data on an annual basis. The last set of data was published in May 2021, and I understand that the next set is due to be published in spring 2022.

Noble Lords asked about the extension to the Prüm evaluation period and whether the EU could suspend Prüm co-operation. The EU and the UK mutually agreed to trigger the provisions in the TCA, which had foreseen that an extension might be necessary. Prüm DNA and fingerprint exchanges are continuing as normal. Following the visit of the EU evaluation team to the UK on 23 to 25 November last year, I remain confident that the UK will satisfy the requirements of the EU evaluation in this area and retain access to DNA and fingerprint exchange capabilities.

The noble Lord, Lord Ricketts, asked why the UK does not exchange vehicle registration data with EU member states under Prüm. We are working with the DVLA and UK policing partners to prepare our systems for connection. The UK will be required to undergo a pre-connection evaluation, including test exchanges and a pilot run, when the time comes.

The implementation period for PNR data transfers has been extended. We agreed an implementation period while the UK scopes, designs and implements a capability that meets the new and unique requirement in the TCA for deletion of EU PNR data that does not need to be retained.

The noble Lord, Lord Ricketts, and other noble Lords also asked about Europol and Eurojust. The agreement provides for a relationship with Europol and Eurojust that reflects the scale of our contribution to the work of the agencies and facilitates continued close and effective co-operation. For example, it preserves the UK's access to Europol's core capabilities, including the presence of a UK liaison bureau in agency headquarters and access to the agency's valuable multilateral co-ordination and analytical functions. It also demonstrates the UK and EU's intent to ensure that data exchanges happen as quickly as possible.

On our relationship with Europol, which both the noble Lord, Lord Ricketts, and my noble friend Lord Davies of Gower asked about, the UK co-operates closely with Europol via the terms of the TCA as well as the UK-Europol working and administrative arrangement, in a way which protects and enhances respective capabilities.

I am running out of time, but I want to say something about Russia and the relationship with Interpol. We will continue to work with Interpol to uphold the organisation's integrity and to ensure that members are not able to misuse its systems for illegitimate purposes. We are confident that, with strong, continuous support from the UK and our international partners, Europol's robust checks and mechanisms will be sufficient to prevent misuse of its systems by any member.

The noble Lords, Lord Anderson and Lord Ricketts, asked about data adequacy. Our data protection standards were rightly recognised in our adequacy decisions secured in June of last year. We remain committed to high data protection standards, and this commitment is reflected in the data protection safeguards incorporated into the TCA. Adequacy decisions complement the TCA, which delivers a comprehensive package of capabilities that ensure that we can continue to work with counterparts across Europe to tackle serious crime and terrorism, protecting the public and bringing criminals to justice.

On Part 3 of the TCA—law enforcement and criminal justice provisions—we agree that good data protection underpins international law enforcement co-operation, which is why the UK is firmly committed to maintaining high data protection standards now and in the future. Co-operation under Part 3 is not dependent on adequacy, and there is no legal link between the two. This would have been unprecedented for an agreement of this nature. The noble Lords, Lord Hannay and Lord Ricketts, asked a pertinent question on DCMS data reform. The EU rightly recognised our standards during the adequacy assessment process, but, as the European Data Protection Board and the European Commission have reiterated, a third country does not need identical legislation to be considered equivalent.

I turn finally—as I am out of time—to the Lugano Convention. The noble Baronesses, Lady Goudie and Lady Hamwee, and the noble Lord, Lord Ponsonby, asked about this. The UK's application to accede to the convention is sensible and pragmatic, and forms a good basis for continued civil judicial co-operation. It is clearly in the mutual interests of the UK and EU/EFTA citizens, families and businesses. It is an international agreement specifically open to third parties with no requirement for single market membership, and the UK meets all the criteria for accession. Switzerland, Norway and Iceland have consented to the UK joining but, on 23 June last year, the European Commission issued a formal diplomatic note to the Swiss depositary, stating that the European Commission was

"not in a position to give its consent"

to UK accession. This means that the depositary cannot at present invite the UK to join. Several member states see value in our accession to the Lugano Convention and express warm support while others are still undecided or, we might say, lukewarm. We will continue to engage with EU member states about our Lugano application

but, given the EU's stated position, it does not seem likely that they will consider our application at this time.

In concluding, I thank noble Lords, particularly the noble Lord, Lord Ricketts, not only for their contribution during the debate but for the insight, dedication and hard work that has gone into producing the *Beyond Brexit* report.

Lord Anderson of Ipswich (CB): Before the Minister sits down, she made a most intriguing reference when discussing extradition to a small handful of states where specific problems had presented themselves, and to one state, if I heard right, where those problems continue. Is she able to be any more specific?

Baroness Williams of Trafford (Con): I wondered if the noble Lord might intervene on that. Yes: it is Cyprus.

11.25 am

Lord Ricketts (CB): My Lords, I thank all the participants in our debate this morning, which has been substantive and wide-ranging. The details are certainly technical, but the subject is vital for the security of citizens in this country and in the EU. I start by thanking the Minister. We are all aware of the huge load that she is carrying with three major pieces of legislation on her plate and a series of late nights this week; yet, I hope she will not mind me saying, she was her usual cogent, comprehensive and collegial self at the Dispatch Box this morning, and we have covered a great deal of ground.

Secondly, as the noble Baroness, Lady Hamwee, has also done, I want to thank the staff of our committee: our clerk, Simon Pook, our legal adviser ,Tim Mitchell, our policy assistant, Genevieve Richardson, and our committee assistant, Amanda McGrath. They took on a large extra burden due to the fact that we only ever met virtually; I think that is true for staff throughout the House. They were themselves working from home, often not in ideal conditions. Many of them had to re-role as IT technicians as well as using their other skills. The House owes our staff a real debt for the load that they have carried during this extraordinary period.

I will not prolong the debate but pick out just three or four very brief themes: first, the importance of sustaining practical co-operation at the operational level and the risk that we may pull apart over the years because we are not part of the management and administration of these EU measures and instruments. Secondly, a number of noble Lords made the point that the TCA is a foundation on which we can build closer co-operation in areas where there are gaps at the moment. Thirdly, it is a fragile foundation in the sense that, as the noble Lords, Lord Anderson, Lord Paddick and others have said, it does depend on continued EU confidence in the UK's high standards, both in human rights legislation and in data protection; I hope that is something that the Government will continue to bear very much in mind.

There are a number of continuing areas of concern such as family law, which the noble Baroness, Lady Hamwee, explained to us so clearly, and the operation of the surrender agreement, all of which underlines the need for this House and its committees to continue to scrutinise this important area of co-operation and all the different arrangements that we have discussed today.

Motion agreed.

Electoral System (Electoral Registration and Administration Act 2013 Committee Report)

Motion to Take Note

11.29 am

Moved by ***Baroness Suttie***

That this House takes note of the Report from the Electoral Registration and Administration Act 2013 Committee *An electoral system fit for today? More to be done* (Session 2019–21, HL Paper 83).

Baroness Suttie (LD): My Lords, it should have been Lord Shutt of Greetland standing here today. As noble Lords will know, my noble friend, David Shutt, very sadly died in October 2020. As the other Liberal Democrat member of the Electoral Registration Act 2013 post-legislative scrutiny committee, I have been asked to present the findings of our committee to your Lordships' House today. I know Lord Shutt would have wanted me to begin by warmly thanking the committee staff: Simon Keal, Katie Barraclough and Breda Twomey, as well as the specialist advisers, Professor Maria Sobolewska and Professor Stuart Wilks-Heeg, for all their hard work and dedication during the inquiry and in drawing up report.

Simon Keal, the committee clerk, told me:

"Lord Shutt was exceptionally good to work with. An extremely dedicated and professional Chair, with a real commitment and passion for the subject matter and determination for the Committee to make a difference."

In looking again at the various obituaries for Lord Shutt in preparing for today's debate, I was struck by the frequent use of "straight talking" and "decent" to describe him. But he also had a wonderful twinkle in his eye. He liked to tell it as it was. He enjoyed a bit of gossip over a cup of tea but was always extremely kind.

As director and later chairman of the Joseph Rowntree Reform Trust, Lord Shutt was able to promote political reform and help community projects, particularly for young people. It is telling that his very last political act in Parliament was to promote the rights of young people to vote, and indeed he won the support of your Lordships' House, through an amendment on automatically adding young attainers, 16 and 17 year-olds, to the electoral register. This was a subject that he felt extremely strongly about and which he was able to explore in more depth during the work on this committee inquiry.

[Baroness Suttie]

As I am sure the other noble Lords present today who were members of the committee will testify, Lord Shutt chaired the committee in his own inimitable style, allowing people to have their say but, as ever, telling it as he saw it as he summed up a discussion. He continues to be very greatly missed.

The timing of this committee inquiry against the backdrop of the Covid pandemic, the 2019 general election and the early—and ultimately reversed—Prorogation was deeply challenging in terms of planning and continuity of the committee work for staff and Members alike. The committee inquiry ran from May 2019 to July 2020, held 16 evidence sessions and received a total of 42 written-evidence submissions. The committee also held seminars with electoral registration officers, including in the aftermath of the 2019 election, and visited the London Borough of Tower Hamlets to speak to election officials and politicians regarding the operation of the registration system there. As well as looking at the Act itself and its implementation, we took the opportunity to assess wider issues around electoral administration, including measures to tackle fraud.

Some of the committee's recommendations have now been passed by events in the 20 months since it was published, not least as a result of the Elections Bill, but today I shall highlight a few issues raised by the report that I believe are still highly relevant. The first is the question of resources. Implementing electoral reforms requires administrators to be properly trained and resourced. We heard during the course of the inquiry that when it comes to resourcing this is certainly not always the case.

Our report found that intolerable burdens are often placed on administrators during times of multiple elections, such as we saw from 2015 to 2019, with three general elections and the EU referendum in fairly rapid succession. We believed that the Government should consider a scheme of financial support or compensation for election-related registration activity because of the very high volume of online applications to go on the register being received in the run-up to those elections. These applications were on a scale that the 2011 reforms did not really anticipate. In their response, the Government stated that the Cabinet Office has "launched a project" to identify and put in place measures to mitigate impacts on electoral administrators. Can the Minister say a little more today about how that project is going?

The second area of particular concern raised during the inquiry was the completeness and accuracy of the registers. This was an area of particular concern to Lord Shutt. The committee was keen to explore ways of improving the registration levels of underrepresented groups and to study best international practice on these matters. Canada was seen as a particularly positive example in this regard. I believe that there has been no further general study of accuracy and completeness of registers since the committee published its report. What action have the Government taken since the publication of this report to improve the completeness and accuracy of the registers? What evidence do they have, if any, that completeness and accuracy are improving?

A third area examined during our inquiry was the simplification of the registration process. Anecdotally, I should mention that it was only because of my membership of this committee that I learned that making an application online, just to be sure that I am correctly registered, actually results in staff having to check online applications for duplicate entries and therefore takes up a considerable amount of staff time that could be usefully used elsewhere. That is why the report calls on the Government to explore the options for an online checking tool, which I believe could save time and money in the long run, even though there would initially be cost implications. I believe that this is a very important recommendation of our report. An online checking tool would also make it easier for electoral administrators to identify whether people were registered in two different locations—sometimes legitimately, sometimes not—and make it easier to transfer an elector from one district or constituency to another if they move house.

In their response, the Government stated that they are

"sympathetic to the potential benefits"

of an online registration checking tool but stated that issues around security, cost and implementation

"would need to be analysed".

They indicated that they were "prioritising other interventions" to modernise the system that they believe will be more useful and other interventions to reduce the burden of duplicate applications. I would be grateful if the Minister could expand a little on these "other interventions" in his response.

The Government noted in their response the long-term nature of the process for consolidating and simplifying electoral law. However, as the House of Lords Constitution Committee, of which I am currently a member, noted in its report on the Elections Bill:

> "The consolidation of electoral law is necessary and overdue, but it would be a significant undertaking. We recommend that the Government takes steps to consolidate electoral law before the next general election."

In reality, the Elections Bill is yet another Bill containing a range of miscellaneous election provisions.

I will not say much about the issue of voter ID, as I am sure that issue will be much debated in the Elections Bill in the weeks to come, but our report called for voter ID not to be first introduced at a general election, instead suggesting that it should be rolled out first at a local election and a full evaluation conducted afterwards.

I have two final points in conclusion. First, our committee was set up in particular to assess the implementation of IER, which faced a multitude of electoral tests shortly after its introduction. While the implementation of IER proceeded successfully, thanks in no small part to the dedication of the administrators, it has not resolved some of the wider concerns relating to the electoral registration system. There remain particular concerns regarding the completeness and accuracy of registers, and about multiple registrations and the rules surrounding these. There also remain concerns about the negative impacts of this Act on, for example, student and attainer registration as well as those from

other underrepresented groups. To date, the Government have not yet indicated that they are minded to tackle any of these issues as a matter of priority.

Secondly, I stress the importance of post-legislative scrutiny itself. I have had the privilege of working in many developing parliaments throughout the world, including four years ago in the Verkhovna Rada in Kyiv. In that work, we have regularly promoted the use of effective post-legislative scrutiny. It is a very positive feature of the Westminster model that we use post-legislative scrutiny to examine the impact of legislation in reality through speaking to experts and practitioners on the ground several years after the legislation has been passed. However, for post-legislative scrutiny to be truly effective it requires the Government to listen. It also requires them to acknowledge the findings of inquiries like ours and be prepared to make changes. I beg to move.

11.40 am

Lord Hayward (Con): My Lords, I echo the comments from the noble Baroness in relation to Lord Shutt. I do not want to duplicate anything that was said but in not doing so, I do not want it to be underestimated that he was a superb chairman. This was not an easy issue to have covered, given the political differences we will be seeing on the Elections Bill in the next few days. To produce a report with unanimity throughout is therefore a reflection of the superb chairmanship of Lord Shutt. The report is a testimony to him and his ability.

Perhaps I may also make a personal observation: I once chatted privately for a few minutes to Lord Shutt about a place called Skircoat Lodge. I doubt if anybody else in this Chamber knows about Skircoat Lodge but it was a care home for kids in Calderdale, which is well recorded in a book called *Damaged*, written by Chris Wild. As a child, he was admitted there aged 11, and at age 12 he ran away to live in a heroin den, until he was 14, because it was safer to live in that den than it was in the lodge. That is an indication of the conversation I had with Lord Shutt—you felt that he really felt the pain. The noble Baroness, Lady Suttie, referred to his work with the Joseph Rowntree Trust, and I will remember him for that sort of caring empathy, as well as for his chairmanship.

I want to pick up one issue that is covered in the report, as the noble Baroness has done, in relation to electoral rolls—referred to in paragraph 48 onwards—and the number of people who apply and the burden that is imposed on electoral registration officers, which is enormous. During Second Reading on the Elections Bill, I referred to the fear that, sooner or later, an election is going to crash because of the burden that we impose on local councils in one form or another.

There are two big burdens: one is postal votes and the other is registration. In evidence, we heard—I quote here from paragraph 50—that

"between … (29 October) and the registration deadline (26 November), 3,850,859 applications were made"

to register, of which 659,000 were made on the final day. About a third of those were recorded as duplicates, to which the noble Baroness has already referred. The Government say that the cost to the local authorities is between £0.4 million and £1.2 million. I am sorry, but I just do not believe that figure. I also do not believe that the estimate on the cost of installing a system is as identified in the evidence we received. If Ireland can run an effective online registration-checking system then I am sure this country can as well, and it would reduce dramatically the burden. Again, that is identified in the contrast referred to in those sections.

We are talking about 1 million people being taken out of the registrations but a large number being added, whereas in Canada—as recorded at paragraph 58—because it has an online system, 80,000 were added. There is a huge contrast between our system, where people make false applications, not malignly but because they do not realise they are already registered, and that in Canada, where people can check for themselves.

The point is that I believe the Cabinet Office is looking at this on a national basis, as it wants a national system. But we actually register on a local authority basis, and therefore, because of all the other records, it should be possible to implement easily a local authority checking system.

I make those comments in relation to this report. I know that it covers part of what I was going to raise on the Elections Bill. As a result, I can promise the Minister that I will not re-raise them in a few days' time.

In conclusion, as I said previously, I thought Lord Shutt was an excellent chairman and I enjoyed serving on the committee. I also thank the staff, as there is so much in the report that is worth considering and will no doubt be quoted in full when we get to consideration of the Elections Bill.

The Deputy Speaker (Lord Faulkner of Worcester) (Lab): My Lords, the noble Lord, Lord Campbell-Savours, is participating remotely and I invite him to speak now.

11.45 am

Lord Campbell-Savours (Lab) [V]: My Lords, I was a member of the electoral registration ad hoc Select Committee, so ably chaired by the late Lord Shutt. The tributes will be many and, if I might say so, well deserved. He was a man who I learned to greatly admire for his political integrity. He was, more than anything, down to earth and ever conscious of his roots. He never forgot them.

I turn to the issue of electoral registration, recognising the burden that recent changes to registration and voter ID will impose on local authorities. Lindsay Tomlinson, the electoral registration officer for Allerdale, in Cumbria, in my former constituency, gave evidence to the committee, and I asked her to summarise her views and those of her colleagues across the country on the reforms now under way, following the session where she gave evidence. This is what she sent me the other day—Ministers should take close note of it:

"We would appreciate some reassurance from the government that early clarity will be given over process and implementation details for Voter ID. This is particularly important for those authorities, such as in Cumbria, who are currently going through local government reorganisation and who will need to have their voter ID arrangements for the new authorities in place before

[Lord Campbell-Savours]

those new authorities come into existence. This will have implications for example in terms of which Electoral Registration Officer has responsibility, how the government online registration service will integrate with the existing and new authorities, how electors will understand which authority they need to apply to etc.

We would therefore request an assurance from government that EROs and electoral administrators have early guidance and clarity so that they can start to put plans in place for voter ID and can communicate from an early stage and with appropriate detail with local electors."

Will the Minister reply to me in writing, in detail, on each of the issues that she has raised? I am sure she will want to circulate those notes among her colleagues around the country and, equally, to the administration officers.

In the sad absence of the former chairman, I want to flag up some of the comments in our report on mandatory voter ID, a subject which I know caused our chairman some concern. First, as we say in our report:

"We are concerned about the potential impact voter ID could have on the participation rates of BAME groups, young people and students".

Can we have a response on that matter from the Government?

In paragraph 335, we state:

"The Electoral Reform Society described itself as 'strongly opposed to the introduction of mandatory voter ID' arguing that it risks 'undermining the principles of fair and equal representation that have been at the heart of British democracy since the adoption of universal, equal suffrage in 1928'. Darren Hughes, Chief Executive of the Electoral Reform Society … told us that voter ID as a means of tackling personation fraud was like using 'a sledgehammer to crack a nut' and said the Government should be making policy based on evidence and not 'on things that people think might be a problem, even though the data and the evidence tell us that they are not'."

What are the total estimates by the Government on reduced turnout, which will be the real measure of whether this works?

In paragraph 271, we said:

"The Electoral Commission told us that there was no evidence from police data in recent elections of widespread attempts to commit fraud."

In that light, what is the Government's estimate of the level of fraud?

For the Conservative Party, Alan Mabbutt told us:

"Most allegations of fraud appear to be based on hearsay rather than fact"—

and he is a supporter of the Government. He continued:

"It is likely that most fraud takes place within the confines of a household where a … person tells everyone in the house how to cast their postal ballot."

Was Mr Mabbutt asked to give evidence or meet Ministers, even in private, prior to this legislation being introduced?

The electoral registration officers then told us in their evidence that they all agreed that a national ID card system would make voter ID requirements easier to administer. They were supported by Richard Mawrey QC, who said that a national ID system would be an effective means of tackling certain types of electoral fraud and could be used both to register an individual and to check people at the polling station, adding that "electoral fraud of the kind we have had here … is almost unknown in continental countries"

that have a national ID card system. I had the feeling throughout the inquiry that ID cards were the answer to the problem, and we could save millions of pounds in the event of their being introduced.

They are just some of my comments and those of others, drawn mostly from the evidence that we were given by our witnesses. I hope that the Government are listening. I believe that this whole agenda is being driven for the electoral advantage of the Conservative Party at the ballot box, and I find that quite deplorable.

The Deputy Speaker (Lord Faulkner of Worcester) (Lab): My Lords, the noble Baroness, Lady Brinton, is taking part remotely and I invite her to speak now.

11.51 am

Baroness Brinton (LD) [V]: My Lords, I declare my interests as a vice-president of the Local Government Association and a director of the Joseph Rowntree Reform Trust, which gives grants to bodies seeking to improve democracy, including improving electoral registration and engagement. In past years, JRRT has supported Operation Traveller Vote and Votey McVoteface, which I shall refer to later. I am also a patron of the Traveller Movement.

I congratulate my noble friend Lady Suttie and the committee on an excellent report and want to remember the extraordinary work of Lord Shutt, who joined the Joseph Rowntree Reform Trust in 1975 and was chair in the run-up to 2010. He kept the trust focused for decades on the purity of elections, including voter registration and party funding reform—causes that remain central to the work of JRRT today. This report is testimony to Lord Shutt, who is much missed as a campaigner, a reformer and a friend.

In my brief contribution, I will focus on combating registration fraud and how that balances with the accessibility of the registration process for two of those communities who are traditionally least likely to register to vote.

Chapter 4 of the report focuses on electoral fraud and the evidence of the level of fraud, as the noble Lord, Lord Campbell-Savours, has outlined. It then considers the Government's intention to deliver what they describe as anti-fraud measures. Paragraph 271 states:

"The Electoral Commission told us that there was no evidence from police data in recent elections of widespread attempts to commit fraud … Natalie Bodek from the Cabinet Office reported that 'in 2017, there was a conviction for electoral fraud, and eight suspects accepted police cautions.'"

Witness after witness to the committee said that the real issue was fear of fraud rather than widespread fraud.

The report also talks about the importance of ensuring that registration reaches those who are least likely to think about it. As I have mentioned, in the past, JRRT has provided grants to the campaigning group Votey McVoteface, which represents canal and narrowboat residents—"boaters"—who often do not register because they live on the move. As with the Gypsy, Roma and

Traveller community, the barriers because they have no fixed address mean that registration for elections has been very difficult.

The Votey McVoteface campaign over a number of elections reaches out to the boater community and explains to them how they can register in a community and how to respond if they face electoral registration staff unfamiliar with those who have no fixed address but who are not homeless. It is a small community, but the work of these campaigners has been important in empowering those whose homes are on our canals and rivers to have the right to vote. For those who say that it is too easy for it to be abused, the Votey McVoteface website is very clear, stating:

"Please make sure that you do have a genuine local connection with the constituency that you vote in. Voting in a place where you've never had a connection could be constituted as electoral fraud which has serious legal repercussions."

It then links users to the section of the Crisis website that provides support for homeless people in registering.

The Traveller Movement also runs registration campaigns and offers advice and guidance for its community. There was a moving account by Cassie Marie McDonagh on her first experience of voting, encouraged by Operation Traveller Vote. She said:

"Some Travellers don't vote. But ask yourself this, would you vote when the only time you hear politicians speaking about your community it's in a way that is disrespectful at best and racist at worst?"

She is right, but what is even worse is when marginalised members of our society—our UK community—are discouraged from using their right to vote. There must be cultural change, and those campaigns are helping with that, but also legislation changes to ensure that everyone who is entitled to can register to vote.

Both Operation Traveller Vote and Votey McVoteface say that most EROs but not all front-line staff are helpful. Staff need to be fully trained to understand the rights of these communities. More burdens on registration will impact these communities and, while registration needs to be robust and fraud proof, it must also be accessible to all our communities, especially those who have been discouraged in the past.

Campaigns such as those that I have described are vital. I agree with the report that our current registration system needs updating, and I commend it for its clear recommendations that overall legislation is now due.

11.56 am

Lord Desai (Non-Afl): My Lords, it is an honour to follow the noble Baroness, Lady Brinton. I want to say something that I have said before, at Second Reading of the Elections Bill. I think that noble Lord, Lord True, has heard it all before, but I am sure he will be patient and listen to me again.

I find the entire election system strangely out of date. It fails to take lessons from the world out there, which has done a much better job of giving people the right to vote. As far as I am concerned, the right to vote is my right to vote in the United Kingdom. It may happen that I have to vote in a certain constituency, but we must make a separation; the right to vote is a universal right, regardless of where you live and whether you move from one area to another—I recently moved from Camberwell to Lambeth, which is nearer to Westminster. I do not have a right to vote in general elections, but I do not want to lose my right to vote in local elections.

Why should it be so difficult for people to exercise their vote? Reference is made in the report to a five-day gap between online registration and the electoral registration officers, or whoever it is, recognising that you are registered. I can order a birthday cake online for a friend in New York in about five minutes and it will be delivered. We are so backward in using technology in terms of politics. As soon as it comes to politics, we have to be 17th-century, we have to have crowded, uncomfortable parliamentary Chambers, and, until recently when got PeerHub to vote on, we had antediluvian voting systems—and we are very proud of that. In India, where the size of the electorate was 900 million at the last election in 2019, every voter has an ID card. Most people have an ID card. It is not rocket science; it is very simple. It is an attitudinal problem, because we are not proactive towards the voter. We still have the idea that giving somebody the franchise is giving them a privilege and not a right.

Again and again, I am very surprised when people say, "Oh, you know, ID cards are going to be very difficult because of the poor BAME. They can't understand what an ID card is, because it is so peculiar and so white. You have to be white to understand ID cards". It is deeply insulting to say this. Everyone always turns to talking about BAME people. I feel sympathetic to them because I am BAME, but I do not understand this argument. People have smart cards and smartphones, and children can go online much better than grown-ups. Yet, somehow, we still think that we must have elections where we need to go to a booth, take a pencil and a paper vote, mark it, and put it in a box. Why do we not have electronic voting machines, as is the case in India? They are so easy to use to count votes.

The whole problem of fraud has been completely exaggerated and we should forget about it. Fraud is not the problem; the problem is our patronising attitude towards voters. We are still not a fully democratic system in which we actually consider voters our masters. We think that they are supplicants to the political system. Read the debate on the Great Reform Act 1832. More or less, it was the elite giving something to the poor. Both the Elections Bill and this very good report are here, and we ought to take this chance to totally revolutionise our election system and bring it, at least, into the 20th century, if not the 21st. We must use electronic equipment and online tools to make our elections simple and joyful exercises to carry through.

12.01 pm

Lord Janvrin (CB): My Lords, as a member of the committee which produced this report, I too will add my personal tribute to the late Lord Shutt. He combined his deep knowledge of the subject of our discussion with relentless common sense. It was a very enjoyable mixture, and a privilege to serve alongside him. I also add my thanks to the staff and advisers who contributed so much to the report.

[Lord Janvrin]

The report examines what may be seen as a narrow piece of legislation concerning electoral registration but, as we all know, it is absolutely essential because it lies at the heart of our democratic system. As others have, I will focus on only two issues: the worrying number of those not on the register, and resourcing the electoral registration machinery. As we have heard, the Committee concluded that the 2013 Act brought much-needed reforms to the registration system, but more needs to be done. We found that these reforms had helped with the accuracy of the registers but their completeness had not noticeably improved. Estimates vary for the so-called missing millions. We did not put a figure in the report, but the Electoral Commission mentioned an estimate of between 8 million and 9 million in its 2019 report. More recently, others have reported that the problem is getting worse. By any standard, this is a staggering number and a serious problem. However, it is not an impossible problem. Other countries with comparable electoral systems—we have heard about Canada—have managed to do much better than us.

The report mentions various steps to take. I will briefly touch on three: automaticity, assisted registration and better data sharing. There are many options for automatic voter registration. The Government's general objection appears to be a matter of principle as much as practice, resting on the principle that it is the citizen's civic duty to register. May I gently challenge this thinking? It is a citizen's civic duty to vote, and registration is part of that process. Therefore, it is the Government's duty to make that process as easy, accessible and robust as possible. It may be that automaticity is appropriate. A particular example of this is the automatic registration of attainers. If this is too far for the Government, then I would urge them to continue to look at assisted registration—namely, to take every opportunity to give that behavioural nudge to people to register or to update their details when they access other public services, such as applying for driving licences or renewing passports.

Finally, as we have heard, there is surely greater scope for using more digital techniques to continue to bring the registration processes into the 21st century. Online voter registration has been introduced but, as has been said, there is no online look-up function. More can be done to allow EROs to mine other public service databases to verify—or help them verify—the accuracy of their registers while respecting privacy issues.

This brings me to my second point: the cost and administrative burden on electoral registration officers. During the committee hearings, we heard evidence of what seemed to be something of a hand-to-mouth process of ensuring adequate resources for funding EROs. In the Elections Bill, we now have other additional requirements being made on the system with voter ID cards and the registration of more overseas voters. I hope that the Minister, in summing up, will assure us that the adequacy of resourcing our election machinery, and this issue of increasing registration, are government priorities.

12.07 pm

Lord Mann (Non-Afl): My Lords, I will add my tribute to Lord Shutt. We both cut our teeth politically in the town of Pudsey, between Leeds and Bradford, where birds fly backwards to keep muck out of their eyes. He was somewhat older than me, although we fought the same elections. He started young but I started even younger. I recall that he had the advantage of a large Liberal hall to operate from, whereas we had the caravan of the church Sunday school superintendent, Tony Rogers. Tony celebrated his 91st birthday very recently, so I am pleased that he still going strong. We altered the balance because we had a whole operation of sending our voters in the rather luxurious Liberal Party cars to the polling station—a practice which survived for at least 15 years. Lord Shutt is sorely missed.

Without straying into future business, I will make the brief point that the Labour Party ought to be celebrating—they might be surprised by this—at how outdated the paradigm of the Conservative Party machine is in understanding voters today. Voter ID at the next general election will cost the Labour Party very little, but it will cost the Conservative Party an awful lot, including red wall seats and red wall voters. I know what the attitudes will be, and that the voters for the Conservative Party won red wall seats for the first time. As an observation, I merely say that the Conservative Party does not know what it is doing with this in relation to the next election. I will be proved right when it is analysed afterwards: the Conservative Party will lose votes because of the Bill. I merely throw that in as a factual piece of information.

I have a question for the Minister in relation to ID; it would be helpful to have clarification now, or perhaps even a government amendment, if what I am told is accurate. The practice of party agents and candidates standing inside a polling room has crept in. I have challenged that, and I am told that the law allows them to do it—not to canvas, that is forbidden, but to stand the entire day in a polling room with a rosette on, saying nothing. I think that is intimidating the voters. However, voter ID is an entirely different concept, as people's personal data can potentially be discussed in the polling station—voting of course is done privately, but not necessarily the dialogue over identification. Is it therefore good practice to allow party candidates or agents—including those wearing rosettes—to stand in a polling room on election day? If it is, which is what my returning officer informed me in ruling out my objections to this practice, will the Government bring forward an amendment to make it illegal? It seems to me that it is highly inappropriate.

The issue of disabled voters and other vulnerable voters is one I want to home in on. Disability can be defined in many ways; returning officers do not seem to be using their powers—perhaps those powers should be strengthened—to define who are vulnerable voters, in particular in relation to assistance with postal voting. There is a remarkably high wastage rate among that section of the electorate on postal votes. Almost by definition, it is impossible to say which party that affects; I imagine that, overall, it balances out over the country. The kinds of people who get it wrong, however,

tend to be those with, for example, very low levels of literacy; those with a learning disability; elderly people whose eyesight is not as good as they would like to admit; and people whose manual dexterity, otherwise known as "writing", is not as good as it needs to be for the signature required. Their votes often get ruled out.

There ought to be a duty on returning officers to consider that and to make available far more election officials who can assist in completing a postal vote, and specifically the verification of a postal vote. That could be at town halls or in other local authority venues, or in care homes or people's homes—particularly in people's homes. I think, indeed I know, that would increase the actual turnout of votes counted, as opposed to the number of votes submitted. While it is a small number, in a general election it can be many hundreds. I do not know whether this was totally within the rules, but I recall one returning officer who, on opening wrongly filled-in verification forms early, used to return them to the voter explaining what they had done wrong and giving them a second chance to vote. That kind of intervention, if necessary by additional law, would be extremely helpful. Literacy and other such issues are often overlooked. However, as the Government are very concerned about the propriety of postal voting, such an intervention would also further ensure that postal votes are completed in the way in which the voter wished them to be.

As we all know, the reality is that, if a 95 year-old with failing eyesight and a trembling hand is trying to fill in a vote, they will tend to call in a relative to assist—and hopefully get the vote that they wish. Their ability to bring in an official, or the ERO themselves, would be quite a significant improvement. I am aware of cases where people have objected to their family standing over them and pressuring them on their postal vote, but do not have a route out of that. While those cases of pressure small in number and concern precisely the people who would never complain—certainly not to officialdom, although perhaps to a candidate who has been denied a vote—it seems that this could be an enhancement of the system, and one that would be relatively easy to make by giving a further duty to EROs to consider this.

I have two final points to make. The first is that I do not understand why we allow more than a single registration. I do not mean that it should be illegal for someone not to have removed themselves from one register as they move to a second house, but the principle that people—people like us—can vote in two different locations seems fundamentally anti-democratic. Why should someone with two homes choose where they vote, whereas someone with one home cannot? I understand the principles historically in terms of local government and finance but, with the myriad elections we have today, why should someone be able to choose which mayoral election they vote in or, as the law allows, vote in two mayoral elections on the same day? That seems fundamentally flawed in logic. Such a change would also discourage people from jumping around, because some of the registrations and where people claim to be living can themselves be dubious. If we are looking for something dubious in the system, that is a dubious part—I will finish in a minute.

A noble Lord: Now.

Lord Mann (Non-Afl): I thank the Whip for the prompt.

My final point is on early voting. Early voting ought to be encouraged, and the way to do that is to allow returning officers the power to bring in early voting for five days before an election at a town hall. Small business people in particular would benefit greatly from that.

12.18 pm

Lord Rennard (LD): My Lords, the members of the Select Committee are to be congratulated on their report. I am sure that their recommendations benefited from the presence of so many members with substantial experience of election campaigns, including of course my late noble friend Lord Shutt of Greetland, who stood for my party in seven general elections, as well as many local ones. The Motion to take note of the report was very ably moved by his colleague on the Select Committee, my noble friend Lady Suttie, with whom I worked closely in what proved to be the most successful general election campaign that our party has ever fought.

The committee's work demonstrated the value of looking again at legislation which, with hindsight, had left much room for improvement. At the heart of the issues it considered was the fact that there is no right to vote without being registered to vote. As the noble Lord, Lord Janvrin, noted, the Electoral Commission's most recent estimate indicated that between 8.3 million and 9.4 million people in Great Britain who are entitled to vote are not correctly registered, and around 400,000 people in Northern Ireland are in the same position. As he said, the situation may be worse than that.

The Select Committee rightly drew attention to the priorities of improving both accuracy and completeness in the electoral register, but the Government's response was to sound as though they agreed with the principle while agreeing to do nothing significant about it. When individual electoral registration was introduced, Parliament agreed that complying with the registration process would remain a legal requirement and that failing to comply could result in a fine of up to £1,000. The Government's response to this report says they believe that registering to vote is no more than a civic duty and claims the Government

"encourages all eligible citizens to do so".

Perhaps the Minister might tell us later of any example he can find of a legal requirement which is fairly described as simply a civic duty, an entirely voluntary action. Where else can you be fined if you do not do something which is a supposedly voluntary action?

The report takes up the point that I made strongly in my evidence to it. I pointed out:

"Some councils send letters and forms specifically mentioning the possibility of fines if people do not co-operate with the process, whilst others make no mention of it. Whilst prosecutions are very rare, the reference to a legal obligation to comply with the process is very important and makes a difference to the rate of response to such communications."

Awareness of the possibility of being fined increases significantly the rate of response for forms requesting registration. The committee asked the Government

"to provide greater guidance in this regard".

[LORD RENNARD]
If the Government really wanted to see more people registered, they would ensure that the obligations and potential fines are made clear, specific, and prominent in all written communications, not just where an individual electoral registration officer or local council chooses to do so. This is necessary because research conducted by the Electoral Commission showed some years ago that 60% of people think that the electoral registration process is automatic—this is why many people do not reply to communications about it.

The Government do not show much sign of genuine interest in maximising registration. How can I justify saying that? It took four years from when a Minister first agreed with me that it should be possible to include information about registering to vote when young people are notified of their national insurance numbers before the Government acted, and then in a minimal way—four years to add six words to a document letting young people know of a website through which they could find out about voting. And the information on the form about voting is just about the least pressing invitation to register that could be imagined.

I raised the issue of many young people being missing from electoral registers in the recent debate on a Private Member's Bill about the voting age. In response, the Minister, the noble Baroness, Lady Chisholm, praised the efforts of the voluntary organisation Bite The Ballot but seemed to be unaware that that organisation had to close more than two years ago. This was because the Government withdrew funding for its excellent initiatives, such as organising a national voter registration week. So, will the Minister say today what the Government will do to restore funding for such initiatives?

12.24 pm

Baroness Blower (Lab): My Lords, I rise to speak in the gap. I come late to this, having not been part of the committee but knowing that there is much more to do in the electoral system. As noble Lords may know, I come from an education background and one of the things we often talk about as teachers in discussing our pedagogical approach is that, if we want to inculcate good habits in young people, we have to catch them early. By "catching them early", I mean not just immediately before they are required to register to vote. I regret the fact that the primary schoolchildren who were previously in the Gallery have now left, because it is my contention that, although I know the national curriculum to be overburdened and that teachers have many responsibilities wished upon them, actually there is a proper place in the primary, let alone secondary, classroom and curriculum to make sure that young people understand about the process of registration and voting.

To follow on logically from the noble Lord, Lord Rennard, I know very large numbers of young people who genuinely believe that registration to vote is automatic. I have actually been at polling stations where young people whom I have met have turned up to vote in the full belief that they could vote, although they were in fact unregistered. So, while I do not wish to add to the burden of my colleagues who are teachers, I do believe that it is important for the Government to consider what further role there might be for schools. In my experience, there are a number of teachers who are enthusiastic about this, who definitely regretted the loss of Bite The Ballot, and have sought, in their own small ways, to carve out space in the curriculum to make sure that children, who, of course, will not be voting any time soon, and young people in secondary, who might very well be, are actually fully informed of what their rights and responsibilities are as engaged and active citizens. This is clearly a very good report, as all Members have said, but there is clearly "more to be done".

12.26 pm

Viscount Stansgate (Lab): My Lords, I am taking advantage of the flexibility of the rules of the House to intervene briefly in this debate, although I am not on the list. Moreover, I was not a member of the committee like many other noble Lords who have spoken already, but I just wanted to say a couple of words. I was here yesterday when the Minister was replying to the debate on the Elections Bill, and here we are today and he is replying to the take-note debate. It is a pity that it is that way round: we should have had a debate on this report before the Elections Bill came to the House.

When I was young, part of my political apprenticeship, I suppose you could call it, was to go on a voter registration drive in the constituency in which I grew up, North Kensington. I remember very well going to the Golborne ward and as a young political activist I was astonished at the numbers of people I discovered in the course of that exercise who were not on the register and should have been. That is an impression I have been left with ever since. Of course, the data of that constituency was such that there were many people in transient surroundings, multiple occupation and so on, but it was a lesson I learned at an early age. That is why, when the Minister comes to reply, I would be very grateful if he would address at least a few remarks to recommendation 2 of the committee, which includes

"piloting automatic registration for attainers".

If we are going to change the culture of registration and the ability, I think that is a good place to start. Therefore, I have used my brief moment in this debate to bring that to the attention of the Minister and the House.

12.28 pm

Lord Kennedy of Southwark (Lab Co-op): My Lords, first, as other noble Lords have done, I thank the noble Baroness, Lady Suttie, and her committee for the work they have done to produce the report for debate here. I also pay tribute to Lord Shutt. I knew him well; I used to enjoy our conversations in the House; he was liked and respected by everybody in the House and we all miss him. We are all poorer for him not being with us and the tributes we have heard today from across the House, and the tributes to the work he did on this report, just show the affection in which he was held by all of us and the good work he did. I want to record that tribute to him.

There are many excellent points raised in the report that I think the Government should reflect upon, not only in their response to the report in 2020 but on the back of this debate. It is ironic that we are putting the economic crime Bill through the House at this very moment—it will be law next week—in which we are seeking to deal with all sorts of issues, including dirty money coming into the UK and so forth, and then we have what was formerly called the electoral integrity Bill, now the Elections Bill, which makes it legal for people to donate money to political parties even when they departed our shores 20, 25 or 30 or even 35 years ago. I think there is some irony in that.

In my previous roles as a full-time official for the Labour Party and as an Electoral Commissioner, I have dealt with government departments, Ministers in the coalition and Ministers in the Labour Government and commission officials. My overarching intent always has been that we have clean and fair elections in this country—I want to win elections, but I am happy to lose an election if it is clean and it is fair. The electoral register has to be as complete and as accurate as possible, so that the people of the United Kingdom can go out and vote for the party that they want to form the next Government. When changes are made to electoral processes and procedures, there must be as much buy-in from all the political parties as possible. The state should be doing everything that it can to facilitate well-run elections and complete and accurate registers.

I like the noble Lord, Lord True, very much and he is a very good man—a man of integrity and a man of principle—and I always enjoy our conversations outside of the House. But today, I make a plea to the Minister, with the opportunities that the Elections Bill offers and the issues there, to get around the table to discuss the serious concerns that I and people in other parties have about aspects of that Bill and to work with us. It is totally wrong that we end up passing legislation that whole sections of this House think is totally wrong. We must, where we can, have changes to electoral law with as much buy-in as possible from everybody. So I hope the Minister will do that when we get on to the Bill again next week—I am sure he will.

As others have mentioned, the Government introduced the Electoral Registration and Administration Act to reduce opportunities to commit electoral fraud through the registration system. In June 2020, the committee published the report that we are debating today: *An Electoral System Fit for Today? More to be Done.* The committee's view is that the new electoral system introduced by the 2013 Act has worked well, but it has also brought challenges: particularly the administrative burdens of managing the system at election times and maintaining accurate and complete registers. The committee also set out further steps that should be taken to prevent electoral fraud as a matter of urgency and made some key recommendations.

The government response in September 2020 welcomed the report and outlined other steps that the Government have since taken to improve the registration system, as well as their future priorities such as the introduction of voter ID. The Government responded to each recommendation of the paper except for those that fall within the responsibility of the Electoral Commission or devolved Governments. Despite the recommendation of the committee, the Government refused to bring forward targets to increase the number of people who are registered to vote—which I think is very disappointing.

We know that the Elections Bill is bringing forward voter ID and other measures, but I fear that, as other noble Lords have said, we are seeking to solve a problem that is very limited in its scope. There is not widespread evidence of electoral fraud—there has been one or two; I accept that entirely—but, as I mentioned, there was only one prosecution from the 2019 election. Regarding these plans, I worry about the risk of denying people their right to vote. I accept the point that the Government are going to make available cards for voter ID, but I worry that people—particularly elderly people, those on low incomes, ethnic minority voters and others—are at risk of losing their vote. I look forward to the Minister setting out what the Government are going to do to ensure that I am wrong and that is not the case. Voter impersonation, as I have said, is not the issue that some people have suggested it is in our country: there was one person in 2019. You are more likely to be struck by lightning than to be a victim of electoral fraud.

I cannot think of a single election that we can point to that has been undermined due to mass fraud. So why are the Government spending millions of pounds to fix this problem? Can we also see what the Government are doing to ensure that we have the most complete and accurate electoral register as possible? I look forward to the Minister setting that out for us.

I also want to look carefully at a number of points that other noble Lords have made. I agree with the points that the noble Lord, Lord Hayward, made about the pressure burden on electoral registration officers. I think that he is absolutely right: there are huge pressures, as the report mentions, particularly at the time of elections. Maybe it is time for us to have a conversation about how we organise that service—there should be a different way of doing it. It has obviously grown up as something delivered by local authorities, so maybe we should ask if that is right for the future. Should something different be done? We should have a conversation about that.

The noble Lord, Lord Desai, quite rightly drew the attention of the House to how, in many respects, our processes are still quite Victorian and that, with all these fantastic changes we have in technology, very few of them are actually applied to electoral registration. That is something that maybe we need to look at as well. I certainly think we should look at the question of technology.

My noble friend Lord Campbell-Savours again made a point about fraud, and I agree with him.

I also agree with the noble Lord, Lord Janvrin, who talked about the citizen's civic duty, which is absolutely right—it is your duty to go out and vote. It is the duty of the state to facilitate you getting on to the register to enable you to do that, so I feel that is a very good point.

The point about the use of data is really important as well. Are we sure that we are doing everything that we possibly can, within legal confines, to make use of

[Lord Kennedy of Southwark]
the data that local authorities and government agencies hold to get people on the register? Let us be clear: we all accept, I think, that there is an underregistration problem in this country, not an overregistration problem—no one has ever suggested that. There are millions of people who should, and could, be entitled to vote but who are not on the register, so we need to make sure that we get that right.

My noble friend Lord Mann gave the House important ideas on how to get people who want to vote and how they could vote—what about disabled people? Again, I am sure that the Minister will take those points back.

Again, that goes back to the point that I made earlier about resources. How are we going to ensure that the electoral registration service is properly resourced and does not get itself into difficulties with all the other pressure that local government is under?

I said earlier that I was a member of the Electoral Commission—I was for four years—but I am going to be a bit critical of the Electoral Commission now, because I do not think the commission has done enough to stand up for the registration process. It could have done more, and it should do more. I was always a bit frustrated that the commission would often send out these forms to the EROs, which was a tick-box thing. It should do more, and I hope it will do more to add its voice to the defence of the electoral registration system and ensure that we get more people to vote—it has not done that, but I hope that it will do more in the future. I think that is the right thing to do.

I have made this plea from the Dispatch Box before—and I know other noble Lords have as well—but reform of electoral law is long overdue. We are going to pass another Bill in the next few weeks that will bolt another piece of legislation on, but the whole system is desperately in need of reform, review and consolidation. I live in hope that we will see that in the next Queen's Speech. Certainly, the Government need to get a grip on this because bolting other bits on all the time is not the way to do it. We are desperately in need of a review there, as we are for the simplification of the electoral process—the committee talked about options such as an online checking tool—and the inefficiencies we have heard about in the debate today. I certainly read the comments of the noble Lord, Lord Rennard, and others about what we need to do there.

Reference was also made in the debate to good international examples, and I think we should always be prepared to look at what goes on abroad and learn from there. Canada was mentioned as a place where good practice is taking place. We should look at the good practices there and be able to take that on board.

I thought my noble friend Lady Blower made a really important point about young people. She is absolutely right: young people, at an early age, should understand the voting system, your duty as a citizen to participate in the electoral system and how to get on to the electoral register, so that when they reach the age to vote, they know exactly what their rights and responsibilities are. Like the noble Lord, Lord Rennard, and my noble friend Lady Blower, I regret the fact that Bite the Ballot lost its funding. I have sat in this Chamber and heard government Ministers rightly praise Bite the Ballot, but the Government then took its funding away. That is a ridiculous situation to be in, so I hope that that will be looked at and that, in future, we will get to a situation where either it is brought back or another organisation like it is funded to work specifically with young people so that they understand their rights and responsibilities.

I will leave my remarks there. I think this is a very good report. My plea to the noble Lord is sincerely meant; I really am worried about the Elections Bill. I hope we can get around the table and look at those issues, because whenever we make changes to our electoral system or processes, getting the most buy-in from the parties is paramount. Our democracy is precious, and we should insure and protect it.

12.40 pm

The Minister of State, Cabinet Office (Lord True) (Con): I thank all noble Lords who have spoken in the debate. Before I forget, I should take up a point made by the noble Lord opposite—about whom I would reciprocate his kind personal remarks—on the Elections Bill, which is obviously not the business directly before us. Of course, as I have said on that Bill, my intention is to meet and listen to as many people as I can. That process is ongoing. Indeed, after this debate I fear that I am not going for a plate of bangers and mash; I am having a meeting with four noble Lords on issues of concern to them soon after 1 pm, so I had better not speak for too long. I give that commitment to the noble Lord and, through him, to the rest of the House.

I also endorse the remarks made by so many about our former well-loved colleague and friend, Lord Shutt of Greetland. I think I said soon after his death that it had been a privilege to have him as my Deputy Chief Whip, as a matter of fact, in the coalition days. I have to confess, not always having stood at this Dispatch Box, that I was occasionally a little bit rebellious; I saw that he had an extraordinary and unforgettable charm and manner, but, yes, he could be direct on occasion—I will confirm that.

I also thank the noble Baroness, Lady Suttie, for bringing this debate forward. As I so often do, I agree with the remarks of the noble Viscount, Lord Stansgate: it would have been desirable if we could have had this debate before the Elections Bill. I will stand corrected, but I was certainly lined up to respond to a debate on the report, which I think was deferred because of the first emergency debate on Ukraine. So, it was neither the Government's intention nor the intention of those around the House that this should have happened, but I take his point. It is a frankly pretty minor—but important for this House—outcome of the ghastly war in Ukraine. I also thank those speakers who served on the committee. It was an important and thoughtful committee, and I think the Government gave a full response to it.

Obviously, I have listened very carefully to everything that has been said in the debate. As noble Lords will know, these matters are no longer a responsibility of my department but the responsibility of DLUHC. That does not mean that I can shuffle off the duty of responding to your Lordships' House on the matter

here; people who stand at this Dispatch Box answer for the whole Government. But in answer to the noble Lord, Lord Campbell-Savours, if I cannot answer some of the many specific points raised, I will personally ensure that the answers are given, and I will refer everything raised in this debate to my colleagues.

We agree with everybody who has spoken that our country's election and electoral registration systems must be modern and fit for purpose. As expectations of what represents a modern and inclusive democracy evolve—perhaps not as far or as fast as the noble Lord, Lord Desai, would like—so must the systems that underpin it. While I accept that getting to a consolidation Bill is an ideal, that does not mean that one must, if you like, give up the duty of dealing with some of the things that are before us. I am not necessarily going to refer to things about the Elections Bill that we are going to disagree on, but there are things such as the novel challenges of digital imprints or postal votes and potential fraud there. These are things that I think the whole House would agree should be addressed.

Indeed, it was in seeking modernisation that we had the introduction of individual electoral registration, a major change brought about by the coalition Government in 2013. That was an important milestone for our democracy. We believe it better serves the needs of electors and more effectively supports EROs in their critical role. I agree with all those who have praised EROs and shown understanding for the pressures on them. They are truly remarkable—I speak as a former local authority leader—in their critical role of administering our electoral registers.

The Government provided a full response to the committee's report, but I will try to add a little on some of the points raised if I can. The Government have made a number of significant advances, such as the register to vote website, which has revolutionised the ability of electors to participate. We have continued to refine and adjust the way that the digital system has worked to improve the security of the system, increase resilience to any service outages and enhance the speed of uploads and downloads. These adjustments have made the digital system more user-friendly. It is very widely used and that is gratifying.

Ensuring that our electoral system is secure, fair, modern and transparent has been a consistent aim of this Government. That was a key commitment in our 2019 manifesto and some of the material in the Elections Bill follows from that commitment. We are delivering on commitments which, as the noble Lord opposite said, not everybody agrees with, such as removing what we believe is the arbitrary time limit on overseas electors' voting rights and delivering important integrity measures.

I can assure noble Lords that this will be done in a thoughtful and thorough way. We have sought to consult widely on the measures and will work closely with those involved in the conduct of elections as we develop detailed processes and prepare for implementation. A lot of specific instances have been raised. In answer to the noble Lord, Lord Mann—this will no doubt come in the reply—I do not believe it is acceptable or accepted for political tellers to go inside polling stations. I have told alongside some pretty pushy tellers, I can tell you, from other parties that I will not name. As tellers, they should not go into polling stations.

This is one of the many challenges that our outstanding teams of people involved in the conduct of elections have to confront. They show extraordinary dedication. It is important to put the last couple of years in context. Many who spoke referred to the Covid events. The elections and electoral registration systems have experienced huge challenges in response to the pandemic. The fact that the local elections last year went as smoothly as they did was by no means guaranteed—consideration was given to deferring them. It required herculean efforts from hundreds of electoral administration officers and staff up and down the country to make that work and we all thank them.

To continue responding to the points that were made, of course resources are important, and a number of people have understandably raised that issue. Obviously, this is a matter for the Secretary of State, DLUHC and the Chancellor going forward, but we accept that effectively delivered reforms must be properly resourced. We believe that that has been the case. The new burdens doctrine requires all government departments to justify why new duties should be placed on local authorities and to explain where the money should come from. Certainly in the case of individual electoral registration, the Government committed to fully funding EROs for that new system.

When it was the body responsible, the Cabinet Office provided funding through two mechanisms: the initial allocation early in the financial year, and the justification-led bid towards the end of the financial year. This provided EROs with almost £8 million of funding between 2015 and 2020. Indeed, local authorities have had the costs associated with IER met by more than £100 million. So there is a track record there, but we hear what the Select Committee and noble Lords have said on this subject and do understand that elections should be properly funded. Issues can arise with unscheduled polls and so on at different times of the year, and the Government have agreed to consider relevant payments in appropriate cases.

A lot of noble Lords referred to voter identification; the noble Lord, Lord Campbell-Savours, did so mildly fiercely, if there is such a concept, when he opened this issue up. The reality is that one of the Government's key objectives is to make our electoral registration system more secure. Photographic voter identification is used across the world, including in most European countries. It is not even a novel concept here in the United Kingdom because, as noble Lords know, to vote in Northern Ireland, people have had to show identification since 1985 and photo identification since 2003, when it was introduced by the last Labour Government. People say that this will lead to lower turnout but, in the first election after the introduction of photographic ID, the percentage turnout in Northern Ireland was higher than in England, Scotland or Wales. It has helped to prevent election fraud and maintain confidence in democracy. We have drawn from this experience and the successful pilots done in a variety of local authorities, and we are working with the electoral sector on plans for implementation. We believe

[LORD TRUE]
that those proposals should go ahead; no doubt we will have extensive engagement on this subject in and outside the Chamber during our debates on the Elections Bill.

Comprehensive, targeted communications and guidance by the Electoral Commission will raise awareness of voter identification. We have worked, and will continue to work, with charities, civil society organisations and others across the UK to ensure that voter identification works for all voters and that all groups are aware of the new requirements. I repeat: we are committed to ensuring that local authorities have the necessary resources to deliver our elections robustly and securely. An impact assessment was published alongside the Elections Bill and the Government will meet the costs of the new burdens that flow from the implementation of the Bill's policy, in line with long-standing government approaches.

Some noble Lords expressed concern about the potential impact of this measure on turnout, particularly among underrepresented groups. I share the view of all those who have spoken that increasing participation is vital. Cabinet Office research shows that 98% of electors already own a photographic document, in-date or expired, that would be accepted under the Bill's proposals. The suggestion that thousands of young people or people from ethnic minorities will not be able to vote is not supported by the evidence. Indeed, our research shows that 99% of those aged 18 to 29 and 99% of people from ethnic minorities own an accepted form of identification.

I will not follow the noble Lord, Lord Mann, or those who put the opposite view on what effect this change might have, but the fundamental intent of the Government is that everyone eligible to vote will continue to have the opportunity to do so. That is why a broad range of documents will be accepted, including those which are no longer current.

The system did not negatively impact on participation in Northern Ireland. Research by the Electoral Commission found that, in Northern Ireland, 100% of respondents had experienced no difficulty with presenting photo identification at polling stations. More voters in Northern Ireland said that it was easy to participate in elections as compared to the rest of Great Britain.

The noble Lord, Lord Desai, gave us some interesting suggestions on modernisation and, as always, I listened carefully to his speech. We have modernised in many ways. Since June 2014, over three-quarters—78.3%—of applications have been made online via the Government's Register To Vote website, and over 15 million applications to register have come from those under 25. That is very welcome. It is testament to how easy the Government have made it to apply to register. It takes as little as five minutes on a PC, smartphone or tablet. Indeed, the user satisfaction rate with the online service is regularly over 90%.

The effect of online registration has been transformative. For the 2019 general election, 91.7% of the 3.85 million applications submitted between the day that the poll was announced and the registration deadline were made online. I understand what my noble friend Lord Hayward and other noble Lords have said about the potential impacts on electoral registration activities, but we are making progress in that area.

As the noble Baroness, Lady Suttie, said in opening, the committee was right to emphasise the importance of the completeness and accuracy of the register. That lies primarily with EROs, but the Government will continue to support them in this, not only through IER but with reforms which were generally welcomed in the annual canvass. Previously the annual canvass process was widely recognised to be outdated, cumbersome and expensive. It was also paper-based, requiring electoral administrators to chase non-respondents with multiple letters and home visits. We have streamlined its operation to improve efficiency, meaning that EROs can now focus their efforts on hard-to-reach groups, which we all agree is very important.

In 2021, the Government published a report on the first year of the operation of the reformed canvass. This evaluation gives an overview of changes in satisfaction compared with the pre-reform canvass. The findings show that reform has reduced the electoral administrators' workload, allowing them to run the canvass, despite Covid restrictions.

Many noble Lords referred to the hugely important issue of underregistered groups. The Government continue to work extensively with organisations that represent underregistered groups to develop solutions which ensure that as many people as possible can have their say at the ballot box.

One example is anonymous registration. Previously, the range of professionals who could act as a qualifying officer and provide an attestation was limited at best. Reforms have now extended very widely the range of people who can provide an attestation, including police inspectors, medical practitioners, nurses, midwives, and refuge managers, who may be dealing with those under domestic violence and female genital mutilation protection orders. All this is designed to help people—such as survivors of domestic abuse, for example—to register anonymously. The Electoral Commission has worked with Women's Aid to produce guidance for refuge managers.

We are working to increase youth participation through initiatives such as the Student Electoral Registration Condition. The Government are working with higher education providers, and I agree with the noble Baroness, Lady Blower, that this strand of education is important.

I am sorry that the noble Lord, Lord Rennard, was a little underwhelmed, but I did respond to his pleas to get something put on the form on the issue of the national insurance number. It might not be as good or as big as he would have liked, but we have made some progress. I will take his comments back to colleagues.

The noble Baroness, Lady Brinton, raised the important issue of Roma and Traveller people. Anyone without a fixed or permanent address can register by means of a declaration of local connection, though not yet online. I will ensure that colleagues are aware of her points.

I was asked about duplication and duplicate applications; I will not go on to whether it is appropriate to register in two local authority areas. We are seeking

to help EROs reduce the burden of potential duplicate applications. In February 2021 we implemented a new feature on the IER digital service, which identifies where an application is made that matches one previously submitted within the past 14 days. Believe it or not, some people forget that they have registered. This feature has been carefully user-tested to ensure that those who wish to resubmit can do so, but those who seek reassurance that their original application is being processed are given that reassurance without resubmitting. The initial metrics show that in 2021 it successfully deterred almost 20,000 unnecessary duplicate applications—80% of the duplicates that were detected and flagged to the user. I assure the noble Lord that we are taking further steps in this area.

I will have to come to a conclusion. I say candidly that the Government simply disagree on the issue of automatic registration. There are amendments to the Elections Bill on this, and I anticipate a specific debate on the subject. We believe that automatic registration could lead, among other things, to less accurate electoral registers, especially if people have moved recently. I look forward to having a longer debate on that subject. I do not know on what day of the Elections Bill it is, but I think it is coming up pretty soon. In response to this report, I should not repeat at length what I will have to say in Committee on the Elections Bill, but I regret to tell those who would like to see it that the Government do not support this proposition.

In conclusion, I again thank the noble Baroness, Lady Suttie, for calling this debate in the absence of the late lamented, great Lord Shutt. It is an important, well thought-through and compelling report, and we welcomed it. We will continue to reflect on the recommendations and on all the very important and interesting contributions made in this debate. I will ensure that a full response to points that I have not been able to take up in this wind-up is set out in a letter placed in the Library, and that those who have participated are directly informed.

I end where I started. My door remains open to any noble Lord who wants to join with the Government in modernising and securing our elections in the context of the Elections Bill. In that spirit of co-operation, I conclude my remarks with many thanks, again, to the noble Baroness.

1.03 pm

Baroness Suttie (LD): My Lords, I thank the Minister for his extremely detailed response and his kind words about my noble friend, the late Lord Shutt. However, I urge him to think again about several points in the report, not least the merits of an online checking tool. Although incurring an expense in the short term, it would save money in the medium and longer term.

I thank all noble Lords and noble friends who have contributed to this short but none the less important debate. It may seem like a highly technical subject, but making sure that our processes for electoral registration work effectively and that the register is as complete and accurate as possible is an extremely important element of our democracy. I am sure that many of the issues raised today will be returned to in the course of the Elections Bill.

Finally, I thank all noble Lords and noble friends for their warm words of tribute to Lord Shutt. Working with my colleague Humphrey Amos in the Liberal Democrat Whips' Office, we shall make sure that Lord Shutt's family is informed about the tributes made during the debate.

Motion agreed.

Digital Technology (Democracy and Digital Technologies Committee Report)

Motion to Take Note

1.05 pm

Moved by ***Lord Lipsey***

That this House takes note of the Report from the Democracy and Digital Technologies Committee *Digital Technology and the Resurrection of Trust* (Session 2019–21, HL Paper 77).

Lord Lipsey (Lab): My Lords, to tell your Lordships the truth, I feel like an imposter. This report was shaped, inspired and given its passion by Lord Puttnam, the chairman of the committee, who I am delighted to see sitting on the steps of the Throne. I was merely one of the team of Peers who he charmed, argued and occasionally cajoled into unanimously endorsing his vision: trust in democracy resurrected by getting social media back on the leash. David's high seriousness was of course combined with his impish sense of humour. He egged on his team—noble Lords and an incomparable secretariat led by Olivia Crabtree and Tim Stacey—to produce an irresistible report. We have lost him, and that fact highlights the extraordinary situation that it has taken nearly two years, or at least more than 18 months, from the time we produced our report to its being debated in this House—honestly.

However, Lord Puttnam and we should take comfort from the fact that the seeds we sowed have multiplied. To cite some: the Joint Committee on the Draft Online Safety Bill flowed directly from our work, and its report—unlike so many parliamentary reports—is being taken seriously by the Government. That is a continuing debate, but I predict it will have a much more satisfactory outcome than it would have done if our report had never existed. We had an impact on this House's Communications and Digital Committee report of July 2021. That committee also produced a persuasive report on digital regulation, which makes real some of the Puttnam committee's recommendations. The House of Commons Petitions Committee produced its valuable report on *Tackling Online Abuse*, which again picked up some of our themes.

Things that Puttnam said at the time which then seemed controversial now seem commonplace. As David said in his foreword,

"our Report focuses on a different form of crisis, one with roots that extend far deeper, and are likely to last far longer than COVID-19. This is a virus that affects all of us in the UK—a pandemic of 'misinformation' and 'disinformation'. If allowed to flourish these counterfeit truths will result in the collapse of public trust, and without trust democracy as we know it will simply decline into irrelevance."

[LORD LIPSEY]

Let me dip briefly into the nourishing pot of proposals that Puttnam put forward. Among them are: a CMA full investigation into online platforms' control over digital advertising—there was a giant step that way in the CMA's announcement yesterday. There is also holding platforms to account for content they recommend to large audiences, coupled with Ofcom sanctions against platforms that fail to adhere to their duty of care; better co-ordination of regulators; transparency, especially transparency over the genie in the box, algorithms; using technology to engage people for democratic purposes; a large-scale programme of evaluation of digital media literacy initiatives, perhaps focusing, as the committee did, on the extraordinary efforts made by Estonia as part of its efforts to keep Russian misinformation at bay—we know now that not a moment of that has been wasted; and a major review of the implications of platform design for users, producing a code of practice on design transparency. I will not go on, because all noble Lords will have read the report or, if they have not, they will have read the excellent Library briefing, but a cornucopia of goodies is hidden within the report.

Not all our proposals were addressed to the Government. One, for example, was addressed to Parliament, recommending it set up a Joint Committee on online safety. As I have said, that happened—to remarkable effect. The CMA and Ofcom also both reacted and have been pushing ahead.

What of those recommendations addressed to the Government? Perhaps one should not expect the Government's response to the report, which they published in—gulp—September 2020, to match the positive tone of our report. We know you do not get many positive tones in government responses. There are a few areas where progress is being made: imprints on digital political advertising, for example, and, at long last, the beginning of a joined-up approach in government to digital literacy. However, overall, there is something rather depressing about the response. Our committee had high ambitions. The Government have low ambitions—tarnished, moreover, by putting the partisan before the health of the polity in the Elections Bill that we debated only yesterday.

By serendipity, we were discussing electoral law in the previous debate. We were not the only people advocating reform: the Law Commission has a set of proposals. Yet the Government chose to prioritise this partisan Elections Bill—a shocking aberration—over making the change the Law Commission wanted.

We wanted proper declarations of spending by everyone in elections, not just political parties. The Government says that we must take care not to "overburden campaigners". We proposed more powers for the Electoral Commission. The Elections Bill which the House debated emasculates the commission. We asked for a Bill based on the Law Commission's recommendations, and we wanted it in place before the next general election. There is no sign of it yet; it remains in the long grass. The Government need to get their priorities straight where electoral law is concerned if they are to retain the confidence of voters. We were an all-party committee recommending changes to sustain democracy. I fear that, too often, they seem a partisan Government, recommending changes to bend democracy their way.

These debates are not over: far from it. Much of what we raised is being taken forward, as I said—at least in debate if not always in legislative action. I must also say that the tone of debate has improved radically. Nobody now defends the exploitation of children by pornographers—as the noble Baroness, Lady Kidron, has frequently pointed out. The Government are actually doing something about it by announcing measures to ensure that age verification is taken seriously. Having said some harsh things about the Government, I cannot tell your Lordships how thrilled I—and, I am sure, the noble Baroness, Lady Kidron—was to find that they were taking some action there. I expect that, like me, she will not be totally satisfied. It is also important that the big tech companies themselves are finally starting to take their critics seriously—that is what a febrile share price does under capitalism—and they are now making not just public affairs but genuine efforts to start to get their act together.

I look forward to the debate and to the Minister's reply. I have been long enough—may be too long—in politics to have learned how often the short term trumps the long term, how a few votes snatched today can seem more attractive than a healthier democracy tomorrow. In this report, we tried to create a counterweight: an appeal, if you like, to idealism to defeat a widespread and corrosive cynicism. Even today, what we said is a cry worth listening to for those who still believe in progress and democracy, and all of us believe in those two things more strongly as a result of the horrifying events in Ukraine. The report is Lord Puttnam's legacy and let us hope that it will be his words that shape our future.

1.16 pm

Lord Vaizey of Didcot (Con): My Lords, it is a great pleasure to follow the noble Lord, Lord Lipsey, and I can assure him that he is no impostor. It is a great pleasure to sit on the Communications and Digital Select Committee with him. Without wishing to have a Spartacus moment, let me say that I am the impostor because not only am I not Lord Puttnam, but I did not even sit on the committee whose report we are debating today. While it was a joy for me to join this House, it was a matter of deep regret that shortly after I joined Lord Puttnam decided immediately to resign from the House, so this is my one chance to work with him, albeit semi-virtually.

I have to say that I have no idea why he resigned as I bumped into him in a bar last night at 10 pm and we gave each other a big hug, but it is a genuine source of regret to me because he was a great mentor to me when I was in the other place working on all the issues that he cares so deeply about and which he spent 20 years or more in this House influencing a great deal. Indeed, in my second interview to be chairman of Ofcom, I though fondly of Lord Puttnam this week and his influence on the Communications Act, which brought Ofcom into being. If my noble friend the

Minister wants to update the House on how I did in the interview, I will look forward to his informative insights.

I should declare two important interests as set out in the register as they are very relevant to the remarks I want to make. One is that I am on the advisory board of NewsGuard, which also includes luminaries such Jimmy Wales, which rates the veracity of new websites, based on nutrition labels, and I also chair the UK branch of Common Sense Media, a US charity that campaigns for kids' rights on the internet and looks up to the noble Baroness, Lady Kidron, and 5Rights for inspiration.

I have to say that this report, albeit that we are debating it some 18 months after it was first published, remains as relevant today as it was then, particularly in the light of the horrific events we are seeing in Ukraine. It has never been more important to be able to address the misinformation and disinformation on the internet, particularly propagated according to the platforms. The report makes many sensible recommendations on how to combat that.

There is no doubt that this kind of information on the internet influences people's responses to news and events. If fact, a report published by Axios today shows that people's trust in vaccines is very much influenced by the sources from which they get their news, and that people who do not rely on trusted news sources have much less trust in vaccines.

The report addresses the risks placed on our democracy and our electoral process. It is important for us to remember that it is not just the US. There were attempts to influence the German elections, and we can expect that attempts will be made to influence our rather more modest local elections in May—again, particularly given the global circumstances. Those attempts are made through the platforms, through disinformation and deliberate misinformation.

So it is quite right that the report calls for a code on political advertising. Political advertising online has been left in a vacuum, as it were, and indeed the limits on spending by political parties do not take account of the ability to propagate information online. It is also right that the report calls on us to bolster sources of local news. The Communications and Digital Committee recently published a report that called on Google, the BBC, Facebook and others to pool all the money that they give to local news sources as a way of showing their virtuosity, in order to provide a real pool of money—a bit like the Content Fund, which was so successful but is sadly now being discontinued—to provide financial support for genuine news.

Referring to my work with Common Sense Media, I also thoroughly endorse the report's call for digital citizenship. The report calls for lifelong learning for digital citizenship, and it is vital that our young people in schools get a proper digital citizenship curriculum. They are growing up in a digital age; they are savvy and they know their way around it. Nevertheless, if the Government backed this much more vigorously, that would make it quite clear how important it is that our children are given the tools to navigate the internet and the information that they are bombarded with.

I conclude, as the numbers flash, by once again recording—because I have not given any speech in this House since I have been here without doing so—my unequivocal support for the BBC. I mentioned Ukraine in my opening remarks. There are many issues to do with Ukraine, but one of them is how important it is for people in this country, and indeed in Ukraine and the world, to have a trusted news source such as the BBC.

1.22 pm

Baroness Morris of Yardley (Lab): My Lords, I am not Lord Puttnam either, but I join my noble friend Lord Lipsey and the noble Lord, Lord Vaizey, in paying tribute to him. I do not think he designed the report as being his last one in this House, but he could not have had a more perfect one for him, since it embraces all the years that he has spent in communications, his commitment to democracy and his understanding of the power of education. We have benefited from his ability to be optimistic about the possibilities while warning about the risks, and to always try to come out on the right side of that balance. I am pleased to say that I too think that this report reflects a lot of his skills, and I was grateful to have the opportunity to serve on the committee with my very good friend.

About a quarter of a century ago I was very optimistic about the effect of digital technology on democracy. Although the report looks at the risks, it is important to say that that technology has offered many things that are good, and we ought to treasure those and make the most of them. But we have been too slow to see the risks. Think about what has happened since the committee was set up: events at the Capitol, the coronavirus, Ukraine and overseas interference in elections. And what have we done in those two years? Precious little, except set up even more committees. That is our challenge: our inability to work as speedily as we need to in taking the action we need to take in order to protect democracy.

There are two themes running throughout the report. The first is the idea that democracy requires that those who hold power must be accountable for that power, and that includes technology and the platforms. The second is that we have to empower citizens to be informed, critical users of information—and it is that which I shall concentrate my remarks on.

Quite simply, what has happened with technology in the past two decades is that we have developed a new way of doing politics and a different way of communicating and campaigning. But we have not given our population the skills and the means to navigate their way through it. Too many citizens do not have the skills to really get on top of this process and be the active citizens that we would want them to be. Even more worryingly, our education system is not preparing the next generation so that they will have the skills.

David said in his foreword to the report:

"In the digital world, our belief in what we see, hear and read is being distorted to the point at which we no longer know who or what to trust."

[Baroness Morris of Yardley]
I do not think anybody here would say that that is not the case; in preparing our children to be active, confident and digitally literate citizens, our education system has got to take account of that world. It is not like it was when I was a child, or a teacher; it is not old-fashioned civics, or learning about the electoral system or where to put the "X". Quite simply, there was not one witness in this report who thought that what we were doing in our schools was fit for purpose and would do the job of preparing our children to be active citizens in the digital arena.

More worrying than that is the evidence that was given by Ministers and civil servants. I have never been as frustrated about how far from reality they seem to be as I was on this issue. They told us that what they had done to prepare our children was bring in computing classes—one element of PSHE and citizenship that in any case is only one lesson a week if you are lucky. That is simply not enough. The worrying thing is that we do not have a department that understands the nature of the challenge, let alone has the ambition to meet that challenge.

I know that, since then, we have had the online media strategy published by DCMS, and that has in it some more promising work; it recognises the work that many of the charities and indeed the digital platforms are doing. But in the end, all it has done is transport the inadequacies of the DfE into its own report. If cross-departmental working is going to bring value added, you cannot just transport a pretty miserable set of activities from one department into what could have been a half-decent report in another department. I would ask the Minister to look at that again.

There is hope, however. From what I know of the department, when DfE takes seriously something such as literacy or numeracy, and works hard at it, it scours the world for best practice. We have all heard about how the Chinese teach maths and how the Australians teach literacy. Where has the energy gone into finding who does digital skills well? It is there. We received evidence from Estonia and Finland. We heard about Latvia, Denmark and Sweden. We are not world-beating in preparing our children to be confident citizens in the digital world. We are not even on the first rung. This is serious—as serious as if we were bringing up a generation of children who could not read or write. I would like to see a bit more ambition in government to make that right. I do see that ambition in our report, and I very much hope that its impact will be felt in the years to come.

1.27 pm

Lord Holmes of Richmond (Con): My Lords, it is a pleasure to take part in this debate, as it was to be a member of your Lordships' committee alongside colleagues who are speaking this afternoon. I declare my interest as a non-executive director of Channel 4 television. I am indebted to the staff of the committee, not least Olivia Crabtree, who clerked it so magnificently. I am indebted also to the noble Lord, Lord Lipsey, not only for the way that he introduced this debate but for doing me a tremendous service by informing me that Lord Puttnam is on the steps of the Throne today. I was going to say that I was sure he would be watching avidly on screen from Skibbereen. I am very grateful.

What we discovered when we published our report was pertinent at the time; it is even more pertinent with a capital P today. We live not just in an era of great difficulties and uncertainties but, in this specific space, of extraordinary contradictions. We have never been more connected and yet, even pre-pandemic, isolation has never been at such a level. We have never been more connected and yet mental well-being has never been at such crisis levels. We need to understand what digital technologies are. In simple terms, they are just the latest tools—yes, extraordinarily powerful, but the latest tools in our human hands. It is up to us.

The fact that so many platforms are more extractive today than open-cast mining is not a factor of those tools per se. It is how they have been programmed—how they have been deployed and led by the humans who have determined that the way to maximise profit and dwell time, and thus add revenue, is to have those algorithms work in that manner. However, there is nothing whatever inevitable about that. They are tools in our human hands. We have just as much potential to drive public good and public benefit, with collaboration through that connection, as to have the isolation and mental well-being crisis that we currently suffer.

These tools give us the opportunity to reach much further than at any other time in human society and drive that public debate. What kind of society or economy—what kind of cities, communities, country and globe—do we want to be living, working and playing in? All these tools could play such a role and it is pertinent not only to have this debate today but to have it connected to the Elections Bill that is going through your Lordships' House. For example, if we had the electoral roll based on a digital ledger technologies platform, that would drive away in an instant so many of the difficulties that we have with the current system.

For people like myself—the blind and visually impaired—and other disabled people going to cast their vote, digital technologies, accessibly and inclusively deployed, could make such a difference. They could enable that vote to be made independently and, crucially, in secret. As we are celebrating 150 years of the Ballot Act, that would seem to be a pretty good thing to strike at if we want to call ourselves a liberal democracy.

The potential is there but it is far from realised right now. We had a phenomenal committee chair in Lord Puttnam. His guiding hand and wise head, with us then and today, proved that he is far more than a local hero. This is not just an opportunity. If we all strive to drive collective action, not only can we use digital technologies for better outcomes and an improved, more engaging democracy, but we can fundamentally rewrite the social contract between citizen and state for the benefit and betterment of both. That is the mission; let us all stick to it.

1.32 pm

Lord Harris of Haringey (Lab): My Lords, it is a pleasure to follow the noble Lord, Lord Holmes. I listened to his plea about the Elections Bill and how we should take those issues seriously, particularly for blind and partially sighted people, where the Bill in fact worsens their condition and seems to do so deliberately.

I am grateful, of course, to my noble friend Lord Lipsey for introducing this debate but, as he and every speaker have acknowledged, we owe an enormous debt of gratitude to Lord Puttnam, who is watching us from the steps of the Throne. His work in chairing and steering the Select Committee throughout all that we did was exemplary. Our clerking team was magnificent, but he admitted that he had sent them more than 2,000 emails during the course of the inquiry, which gives us some indication of his diligence and theirs in supporting us in that work.

I believe that the report, *Digital Technology and the Resurrection of Trust*, is a huge and important contribution to debate and discussion about the future of our democracy. Its main recommendations require far more attention than the Government's rather complacent response would suggest. I want to focus on one narrow area: misinformation and disinformation. Who drives it and who benefits?

In evidence to the committee, the noble Baroness, Lady O'Neill of Bengarve, distinguished between misinformation—telling you that the moon is made of blue cheese, and honestly believing it—and disinformation, which is knowing full well that the moon is not made of blue cheese but still spreading that as a fact. The committee received clear evidence that the levels of misinformation and disinformation being disseminated, particularly about politics, reduces trust in politicians and public faith in democracy. The pandemic saw a huge rise in levels of misinformation and disinformation: those who do not believe that Covid exists; those who connect it to 5G; or those who believe that vaccines are an attempt by Bill Gates to implant brain-control devices through our arms.

So why does misinformation and disinformation spread? The committee received abundant evidence that the very design of the social media platforms facilitates that spread. The algorithms are designed to maximise the time that people spend on the individual platforms. If you appear to take an interest or to like one type of content, you are served more and more of the same. It may be natural to be curious about so-called conspiracy theories initially, but then you see more and more of the same. The initial nonsense gets apparent reinforcement, so you think that perhaps it must have had some truth—and so it goes on.

The other factor is the deliberate amplification of particular disinformation messages. Sometimes this is because the adherents of a particular viewpoint are more engaged in organising, liking and forwarding such messages, but it is not just about like-minded individuals acting together. Messages can be targeted at particular demographics with a view to influencing or reinforcing political opinions. This was the whole basis of the offer made by Cambridge Analytica: if individuals are already predisposed to voting in a particular way, receiving a barrage of messages may make such a vote more likely. Is that legitimate campaigning? Not if the basis is misinformation that should have been corrected, or if it is wilful disinformation. It can be mechanised, moreover, with armies of bots to spread the message.

Who gains from this and how does it affect our democracy? The objective may be to produce a particular result or it may be designed to undermine faith in the system—in democracy itself. In a hotly contested election or referendum, an anti-democratic overseas power—let us not mince words: Russia—may or may not be keen to see one outcome or another, but it has unequivocally succeeded if, at the end of the process, one side or another believes that the rightful result was stolen and the idea gains hold that democratic processes do not work. That is the process that led to the attack on Capitol Hill in January last year.

How do we combat this? First, the origin of material placed on social media must be clear. Secondly, we should place greater obligations on social media platforms to limit the spread of disinformation. Thirdly, we should encourage the effective countering of that disinformation and misinformation and support the organisations, such as Full Fact, that do that. Fourthly—this was mentioned by several noble Lords, including the noble Lord, Lord Vaizey, and my noble friend Lady Morris—we should equip citizens, particularly the next generation of citizens, with the skills to be discerning receivers of information and the critical thinking skills to question the origin of dubious assertions.

These were the themes addressed in the committee's report and they are even more urgent now than they were when we produced it. I just hope that the Minister will do better than the woefully inadequate government response when he closes the debate this afternoon.

1.38 pm

Lord Lucas (Con): My Lords, I was very lucky to have the chance to serve on Lord Puttnam's committee. It was a most enlightening and enthralling experience and I stand by all the conclusions that we published in the report and look forward—my noble friends on the Front Bench may not agree with me—to advocating them, when we come to the Elections Bill and the online harms Bill, in various reports.

As the report says, it is up to us to protect democracy and to aim for a world run in the interests of us all. That requires us to be strong and active in advocating that. Like the noble Baroness, Lady Morris, I started out being optimistic about what are now the tech giants, but I now just view them with disgust. It has been a real lesson in how not to be carried away but to look at things critically and to try to understand where the direction they are going might lead. But at least they need us. Without us, the current crop of tech companies would be nothing. What will the next lot—the ones based on robots that can do everything and produce everything—need us for?

It is really important that we have a strong democracy and that we keep control of these companies and those that come afterwards. None of the tech giants that we have at the moment are going to live that long. Where are MySpace and Friends Reunited now? Who now signs up for Facebook who has all their own teeth? These things are going to be replaced. It is our responsibility as a Government to create the conditions so that what comes after the companies we have at the moment is much better and really supports the ideas of trust, amity and power to the people. That is what I look to the Government for: to create the conditions. They could do a lot worse than choose a really strong and informed chair of Ofcom.

1.40 pm

Lord Stevenson of Balmacara (Lab): My Lords, the previous speakers in this debate have proven beyond doubt that this House should have had the chance to debate this excellent report long before now. For there to be a delay of nearly 18 months before such a debate on such a major report is insulting to those who gave evidence and does a disservice to the work of the clerks, the advisers and the distinguished members of the committee, including the chairman, whom we warmly welcome today and are glad to see observing the debate while also regretting that he is not able to participate. I am sure that he, too, would have had insights to offer to us.

As others have said, the events of the past 18 months have indeed moved things forward. Is there any real doubt now in our minds that Russia and other foreign Governments have used the internet to affect many recent electoral events in this country, including two general elections and the Brexit referendum? My noble friend Lady Morris reminded us about the Capitol riots. The way social media amplifies the false over the true, the extreme over the considered, and the harmful over the benign has a societal cost, and is a real and present harm to ensuring trust in our democracy. The growth in use of disinformation and misinformation is exponential and undermines the trust so vital to our democratic processes, as exemplified in the report.

But there are other things: data-driven political campaigning is growing. It is not limited to specific political advertising on social media and is therefore largely unregulated. We need greater transparency in how political campaigners obtain and use personal data, including what is called "data inferencing".

I was a member of the excellent Joint Committee on the pre-legislative scrutiny of the online safety Bill, already referred to, and I am confident that when the noble Baroness, Lady Kidron, and the noble Lord, Lord Clement-Jones, speak, they will acknowledge, as I do, that much of our thinking on this issue was influenced by the arguments and findings of the excellent report that we are discussing today.

The report of our Joint Committee was unanimous, and we await the Government's response to it. If it is adopted, the report proposes a sea change in the way we regulate social media companies. As my noble friend Lord Harris just said, their business model, based on data harvesting and microtargeted advertising, values engagement of users at all costs, regardless of what holds their attention. While the need to safeguard our children from being likely to access inappropriate material online has to be a priority, it is important to recognise that we are dealing with huge companies whose staggeringly large profits are made at the expense of key issues we must have regard to, such as social cohesion and democratic engagement.

My argument today is that leaving this area of activity unregulated will cause great harm and destroy trust in our democracy, and it must be legislated for. There is a way forward. If the recommendations of our Joint Committee are accepted, the revised online safety Bill will at last hold regulated online services fully responsible for the risks they create by their design and operation, including the algorithms. The key principle is that the laws governing our democracy and elections, like those affecting social intercourse, need to be upheld in the virtual world. If a platform carries, promotes or recommends material to its users which would be against our electoral laws, or recommends or endorses disinformation or misinformation in a way likely to influence elections, a regulator must have robust powers to act when regulated companies fail to do so.

The consequence of this approach is that we urgently need to look at the powers available to the Electoral Commission, as regulator, and ensure that they are fit for purpose in the virtual world. The Joint Committee did not have time to do that properly in the limited time allocated to us to review the draft Bill. At the very least, the Government should be using the current Elections Bill, or commit to future legislation, to ensure that the powers that will be made available to Ofcom shortly can be shared with the Electoral Commission and the ICO, and that there will be no barrier to joint action against firms, organisations or individuals threatening the integrity of our democratic processes. It is that important. Fines and sanctions need to be commensurate with those being made available to Ofcom and the ICO for other harms.

Finally, consideration must be given to ensuring that the Electoral Commission is admitted as a member of the statutory body which we hope will replace the informal DRF, and which we hope that Parliament will set up to co-ordinate regulatory action in the digital world. I look forward to the Minister's response.

1.45 pm

Baroness Kidron (CB): My Lords, I declare my interests as chair of 5Rights, a member of the Joint Committee and a member of the digital democracy inquiry. I too pay tribute to Lord Puttnam, our wonderful chairman. For the record, I give thanks for his many acts of kindness and the guidance he offered me as I started to grapple with the world of legislation and politics. He represents the best of this House.

In the life of tech, 20 months is a long time. In that time, we have seen Maria Ressa get a Nobel Peace Prize for her efforts to protect free speech, battling hostile state actors and identifying Facebook's chilling effect on journalism and the broader information ecosystem. Her words reverberate as we witness the information conflict and resulting violence waging across the globe:

> "I don't think we have wrapped our heads around how much technology has allowed the manipulation of individuals and democracies."

From Frances Haugen, we heard that Facebook ignored its own research showing Instagram made teens anxious and depressed. To Congress, she said:

> "I am here today because I believe Facebook's products harm children, stoke division, and weaken our democracy."

Of course, we also had the horror of Covid misinformation, the attacks on black footballers, and a 77% increase in self-generated abuse—all fuelled by algorithms supercharged to spread at any cost and whatever the harm to people or society.

Facebook, feeling the heat, went for rebranding, rather than fixing the problem. It re-emerged as Meta with a toe-curling video of two grown men playing in

the office and a $10 billion a year plan to make the metaverse our new home—setting off a goldrush in which even McDonald's filed for trademarks for virtual restaurants. Within weeks, we saw headlines that read "the metaverse—already a home to sex predators", and "Metaverse app allows kids into virtual strip clubs." My own personal low point was reading about a *New York Times* journalist who arrived in the metaverse to find that another avatar immediately groped her and then ejaculated in her face. Her pleas to stop were unheard until her abuser, satisfied, walked jauntily away.

Before I continue, I will make two things abundantly clear. First, Meta is not the only tech company at fault. Indeed, it is, by some measure, not the worst. However, it epitomises the culture of a sector that fails to protect its users and spends a fortune on lobbying to make certain that none of the rest of us does. Secondly, the metaverse is not, in and of itself, a problem. My own brief forays include an extraordinary whodunit adventure with a film noir aesthetic, and a fantastic training environment for social workers that allow them to rehearse how to spot signs of abuse or neglect. None the less, Meta has done us an extraordinary favour in showing us that we cannot slice and dice the digital world. The time for picking battles or offering partial protections has passed, because the technology and its associated risk are interconnected and constantly evolving. Laws must be about principles and product safety, with a radical transparency and democratic accountability. In a connected world, the risk to the user is the weakest link.

Twenty months is a long time in the life of a child. I have stood here too many times telling the Minister and his multiple predecessors about the real-time costs to children's bodies, mental health, life chances and, in tragic cases, lives. It is not too late to fast-track privacy-preserving age-assurance regulation. The daily harms experienced by children, while they wait, must surely be on the consciences of officials and Ministers. So too, the support desperately needed by bereaved parents—in their quest to get tech companies to hand over information which may save other children from a similar fate—cannot wait until 2025.

I believe the online safety Bill will be published on Tuesday, so I will not ask questions that cannot be answered here. But while every part of my being hopes that the Bill will reflect the recommendations of both the Democracy and Digital Technologies Committee and the Joint Committee to simplify, strengthen, future-proof and make enforceable the online safety regime, I fear that we will simply get a series of eye-catching additions to the draft Bill which will fail to make the systemic changes necessary.

Last night, I was speaking to a group of teenagers, one of whom said, "The digital world is our oyster, you should assume we are there until you can prove we are not." Another simply said, "I don't think it's right that the tech companies can prey on us." They know, we know and the Government know what this Bill must do. It is the job of this House and the other place to make sure that the online safety Bill is fit for the future and, in being so, reinstates the trust that Lord Puttnam so desperately wanted to see.

1.51 pm

Lord Griffiths of Burry Port (Lab): My Lords, it is a privilege and a pleasure to follow the authoritative words spoken by previous speakers; I am grateful to them. It is also an unexpected delight to see the leprechaun-like figure of Lord Puttnam sitting on the steps of the Throne and sense his spirit in the report that we are considering today.

For me, the unusual thing was that I read this report following the work that the successor committee, the Communications and Digital Committee, has been doing. It has produced its own reports on freedom of expression online and regulating the regulators, which have been published and which, I suppose, must await some nether date in some distant calendar before they will be looked at and considered on the Floor of this Chamber. Reading them that way round, I definitely got the sense that the reports we have been working on have been suffused with and taken further the questions and issues raised in this report. There is a kind of organic feel about them. All of that, of course, is feeding into the debate on the online safety Bill, about which we have both fears and hopes. We will have to see what happens before the balance between those attitudes of mind can be worked out. There is something going on.

Having paid tribute to all that, I confess that I was attracted to speak in this debate by the fact that the report is called *Digital Technology and the Resurrection of Trust*. I could have spent my five minutes talking about the resurrection, but thought that might not be the right thing to do—although if anybody would sign up for that, we will find a room and do it, as I keep saying. Instead, let us consider trust.

The report pays tribute to and weaves into its entire narrative the Nolan principles on standards in public life. I am a great believer that probity, as well as charity, begins at home. I find it very difficult looking at such things as integrity, honesty and openness at a time—a political moment—like this, when trust has been eroded by leadership in this country that leaves much to be desired in terms of integrity, honesty and openness. We lecture the world about how to make the world a better and safer place, as if objectively and beyond us we could throw our voices in the direction of the issues, without taking account that we who make the suggestions must examine ourselves and the integrity, honesty and openness that run through the political body to which we belong. It is a difficult thing.

I offer one example to take it away from the rather personal observations I have just made. I have not had occasion to stay up until 3.30 am, but I see some of the demands made on Members of this House. It is almost institutional bullying to keep them up until 3.30 am, at our age, debating matters that, for an extra parliamentary day, could have been done in a more civilised way. There is no point in shrugging it off or frowning about it. I have seen the result in some Members of this House as, day after day and week after week, they have struggled with the heavy legislative programme imposed on us.

I put my toe in the waters of the Nationality and Borders Bill and asked a simple question, to which I have not had an answer. There are two narratives in

[Lord Griffiths of Burry Port]
play in the Nationality and Borders Bill. One, from the UNHCR and all the legal establishment—the Law Society, the barristers, everybody—is that the Bill offends against the tenets of international law and is an abnegation of the finest principles of the Geneva convention on refugees. On questioning the Minister, I hear that it is up to Governments to interpret the convention and that their legal advice allows them to put forward the suggestions they have. The two narratives are at odds with each other. I do not know and cannot tell which is true. I have asked noble and learned Lords in this House to help us to know which is true. If, as a reasonably intelligent man, I cannot understand which of those two narratives is true, where has truth gone and what is trust all about? Look to ourselves to weigh up the answers to the questions we ask of others.

1.56 pm

Baroness Fox of Buckley (Non-Afl): My Lords, I thank the committee for this report. While I do not agree with lots of its recommendations, it is packed full of fascinating research.

One criticism is that it puts too much faith in the forthcoming online harms legislation to restore democratic trust. If anything is likely to undermine trust, it is a lack of candour about what laws will achieve. The public are told that the Bill will mainly tackle protecting children and the vulnerable from all those nasties online: violent porn, grim suicide sites and hateful, bullying trolls. If only the Bill focused its attention on targeted, creative solutions to those issues, I would be less concerned.

On that, I record my support for the determined efforts of the noble Baroness, Lady Kidron, to fast-track statutory age assurance. I hope the Minister will confirm the Government's backing for this robust, quality child-protection model that, crucially, protects the right to privacy.

In reality, this report and the Bill are much broader and will affect adults. I fear that in the name of protecting adults from what is called legal but harmful online content, freedom of speech will be curtailed and democratic debate undermined.

Today I will explore the chilling effect of identifying misinformation as a chief culprit in damaging trust. We may all think that we agree on what constitutes misinformation—cranky 5G conspiracy theories or Russian war propaganda—but recently the term has become politically loaded: less a neutral, objective description of misleading statements and more used by those officially sanctioned as informed to suppress valid scepticism or silence dissidents who challenge official orthodoxies. The removal of what is dubbed misinformation narrows the plurality of information available in the public square.

It should at least give us pause that Putin has declared fake news illegal and is locking up Russian citizens for posting so-called misinformation about Ukraine. We must avoid emulating this propagandist approach of allowing only official versions of the truth. In the free West, we need to query the wisdom of creating new power brokers that get to arbitrate the truth, whether they are unelected regulators, big tech platforms or newly fashionable fact-checkers. I like the quote in the report from the Kofi Annan commission, which shows that it is more complicated. It said that

"there has never been a time when citizens in democracies all shared the same facts or agreed on what constitutes a fact. Democratic citizens often disagree on fundamental facts and certainly do not vote on the basis of shared truths. Democracy is needed precisely because citizens do not agree on … facts."

Covid brought a lot of these tensions to the fore. The report notes that the pandemic means that

"online misinformation poses not only a real and present danger to our democracy but also to our lives."

When misinformation is so darkly posed as a life-or-death danger, it gives a green light, as it did, to active censorship by big tech of a range of interviews, articles and YouTube films, and to the cancelling and reputational destruction of many individuals. But how reliable was this online public health war on misinformation? For example, the report congratulates government statisticians on their high-quality statistics, which helped the public to scrutinise policy. However, since the report was written, many of those statistics have been exposed as misleading or revealed as inaccurate conflations with projections—or, even worse, as using worst-case scenarios as a form of behaviour-change policy—yet anyone who raised queries about the data at the time was dubbed a dangerous spreader of misinformation.

Then there is the Wuhan lab leak theory. For many months, the likes of Ofcom, social media platforms and the scientific establishment called that dangerous misinformation. But now we know better—in part thanks to *Viral* by Viscount Ridley. We know about the WHO's whitewashed 2021 report on Covid's origins. We have read the emails between the Wellcome Trust's Sir Jeremy Farrar and Dr Ron Fouchier, admitting that the leak theory was plausible but, if known publicly, might harm science so should be suppressed. Yet, even now, none of this is dubbed misinformation.

These double standards, and the censorship of material branded as misinformation, contribute to a climate of mistrust. People say, "Why was it removed? What have they got to hide?" There is growing cynicism about the motives of those in power to decide what is the truth and what the public are allowed to see, hear and say. I turn all this on its head. If there is a trust deficit, perhaps it is a top-down loss of trust in the public, and a default assumption that the public are hapless and hopeless citizens, easily duped by malevolent agendas, passively imbibing what they see and read uncritically and incapable of evaluating information.

I urge the committee and the Government to rediscover earlier optimism and focus on technology as a democratising force. As the report notes, anyone with a mobile phone has a printing press, a broadcast station and a library in their pocket. That allows the previously marginalised to challenge traditional gatekeepers. Let us be careful that a moral panic about misinformation does not create a new cast of censorious gatekeepers, at the expense of trust in the public and at the expense of free speech.

2.02 pm

Lord Mitchell (Lab): My Lords, like most noble Lords, I am absolutely thrilled to see Lord Puttnam here today on the steps of the Throne. His wisdom and

fingerprints are all over this cracking report and we owe him a great debt of thanks. Speaking very personally, I have to say that it is a real tragedy that he is no longer a Member of this House. My noble friend Lord Lipsey is to be congratulated on stepping into his shoes and delivering such a masterful introduction to this debate.

Never one to hold back, Lord Puttnam said in another speech that the Government's response was "lamentable" and:

"It came across as if written by a robot".

I will go a little further. On this committee sat Members of your Lordships' House, drawn from all sides, each of whom has extensive experience of the dangers to our democracy from the misuse of digital technology—and we have heard from this debate just how powerful and experienced all the contributors are. So why did DCMS produce such a tepid and bland reply to our report, and why did it not accept many of our 45 recommendations? We know the answer: it just ignored them. Written by a robot? More likely written by a junior with the brief, "Write 25 pages and say nothing".

I wish to contain my comments to recommendation 8:

"The Competition and Markets Authority should conduct a full market investigation into online platforms' control over digital advertising."

I will link that to what I believe to be the massive dangers to our democracy posed by big tech, in particular Google and Facebook; I do not have to use their other names, Alphabet and Meta.

When Google was founded, it had a corporate mantra which proclaimed, "Do no evil". Facebook had one too. It was "Move fast and break things". Today, Google has 3.5 billion daily searches; Facebook has 1.7 billion active users. These staggering figures show that both services are hugely popular in much of the world, and they are also free of charge. But, of course, we all know that they are not free, because their product is each one of us, and our combined data is very valuable. The amount of data that Google has on all of us is mind blowing: 10,000 petabytes, a number that is so immense I cannot even conceive of it. How does Google collect it? From our location, from our searches, from the apps we use and from what we buy and where we buy it. Facebook has 300 petabytes of information as well: a smaller number but still huge.

Both companies monetise this data by using algorithms that produce results that are vital to advertisers in selling their products. If data is the new oil, Google and Facebook and their sister companies, WhatsApp, YouTube and Instagram, are literally swimming in it. The ownership of such data gives these companies enormous power—corporate power the likes of which has never been seen before. But they have not behaved like responsible citizens. In the political environment, we have seen massive abuses of power, particularly by Facebook. The role of Cambridge Analytica in the 2016 Brexit referendum, and then its role in the 2020 presidential election in the United States, are famous examples. The data it provided, and the manner in which it obtained it, were contrary to the best aspects of democracy. Frances Haugen, the Facebook whistleblower, said of Facebook in her brave testimony to the House of Commons Select Committee:

"Unquestionably, it is making hate worse."

Their power of these companies is awesome. Their bank accounts are huge. They are staffed by brilliant people and they hire the best advice in the world, Mr Clegg included. Plus they pay minuscule tax on their enormous global profits. From an economic point of view, both Facebook and Google are monopolies—and not just national monopolies but global ones. Google, for example, has 92% of the UK search market; YouTube's figures are even higher. These companies engage in surveillance capitalism. They are dangerous and we need to curb their power.

Luckily, movement is afoot. In the United States, Lina Khan, head of the FTC, is pushing for antitrust Bills. In the US Senate, Amy Klobuchar has introduced a Bill. In the EU, Margrethe Vestager is introducing a digital services act to regulate big technology. But we lag behind. I ask the Minister whether the Government have any plans to encourage the CMA to investigate the monopoly powers and influence of big tech. Big tech moves fast and breaks things. Big tech also facilitates hate and evil. We, the lawmakers, are ponderous and slow to act, but the threat to our democracy is real and we need to move with haste.

2.08 pm

Lord Clement-Jones (LD): My Lords, this has been an inspiring debate. Events in Ukraine should make us all cherish our democracy in Britain and reinforce our determination to reinforce democratic values across the world. Nothing can compare with the suffering of the Ukrainian people in the defence of their democracy: they are a shining example to us all.

It is regrettable that we are debating this excellent report, which is still highly topical, nearly two years after it was published. I, like all of us who have spoken in this debate, very much miss Lord Puttnam leading the charge on the issues so important to him, and with which his valedictory lecture last October dealt so brilliantly. We also owe a big debt of gratitude to the noble Lord, Lord Lipsey, for stepping in and for his masterful introduction. It is good to see so many members of the committee participating today.

As the noble Lord, Lord Lipsey, says, what seemed controversial then has become commonplace today. Some of the recommendations of the committee are already in the pipeline, but we need to give far more attention, as the noble Lord, Lord Harris, said, to the other recommendations that are not in the pipeline. Given the crossover with many aspects of the report of the Joint Committee on the Draft Online Safety Bill, I am particularly pleased to be taking part in this debate today.

In a piece four years ago, US tech journalist Dylan Matthews wrote:

"The internet was supposed to save democracy… How could we have gotten this so wrong?"

He wrote this in the light of alleged manipulation by Russia both in the US presidential elections and in the Brexit vote, with the aid of Cambridge Analytica, which used data collected online from millions of personal Facebook accounts, targeting individuals with specific misinformation. As the noble Baroness, Lady Morris, said, we were too slow to see the risks. As the noble Lord, Lord Stevenson, said, who doubts this activity now?

[Lord Clement-Jones]

In the intervening years, the power of viral disinformation on social media has become even clearer. The long-delayed report on Russian interference, by the Intelligence and Security Committee in July 2020, said:

"The UK is clearly a target for Russia's disinformation campaigns and political influence operations and must therefore equip itself to counter such efforts."

We also had the riots at the Capitol in Washington DC on 6 January 2021, mentioned by the noble Lord, Lord Harris. An investigation by ProPublica and the *Washington Post* found that Facebook groups swelled —with at least 650,000 posts attacking the legitimacy of Joe Biden's victory—between election day and the 6 January riot, with many calling for executions or other political violence.

We have had former Facebook—now Meta—employee Frances Haugen's damning testimony, mentioned by the noble Baroness, Lady Kidron, and the noble Lord, Lord Mitchell, to the USA Senate and our own Joint Committee on the Draft Online Safety Bill, on which I sat. She accused the company of putting

"astronomical profits before people."

Most of us need little convincing that things have gone badly wrong somewhere, and in 2022, after Covid lockdown, the situation seems worse. But as the report of the Democracy and Digital Technologies Committee says, we must look at the roots of the problem and the accountabilities involved. It is all about the power of the algorithm and data, as the noble Lords, Lord Stevenson and Lord Mitchell, said.

We are being targeted with our own data. Online political microtargeting is used to alter how we vote, especially with misinformation. As the noble Lord, Lord Harris, said, extreme content is amplified as part of the platform business model. Outrage is encouraged. Their business models operate directly against the best interests of a democratic society. They prey on us, in that vivid phrase quoted by the noble Baroness, Lady Kidron. Lord Puttnam made the strong point in his valedictory lecture that 6 January was a wake-up call to tackling the problems with microtargeting and algorithm bias which underlie the business models of the social media platforms.

Ownership of data is increasingly concentrated in the hands of big internet brands, as we have heard from a number of noble Lords today. Metcalfe's law of networks has led to enormous and growing power for social media.

What should the consequences be for social media? How can we prevent these harms to democracy? How can we restore trust—or resurrect it, in the words of the report? The bottom line is that we do have the power, as the noble Lords, Lord Holmes and Lord Stevenson, said. We need government regulation, and quickly, as the noble Baroness, Lady Kidron, said. In the phrase used by Avaaz, we need to detoxify the algorithm, not only regarding hate speech, terrorism and cyberbullying but in very clear electoral regulation and action by the Competition and Markets Authority to enforce competition in the tech and data space.

We also need much greater personal control over our data and how it is used. Misinformation and disinformation are particularly hard to define, but as the committee said, if the Government decide that the online safety Bill is not the appropriate place to do so, then it should use the Elections Bill, which is currently making its way through Parliament. Tackling societal harms caused by misinformation and disinformation is not straightforward, as our Joint Committee found, but the draft online safety Bill, as we described in our report of last December, needs to go further.

There is of course a tension with freedom of expression. I agree with the noble Baroness, Lady Fox, about that being a major consideration, but I certainly do not agree with her analysis, and as we emphasised, we must prioritise tackling specific harmful activity over restricting content.

In our Joint Committee report, we recommended safety by design requirements, such as increasing transparency and countering algorithmic power and virality; as Fair Vote says, it is a proven way to preserve free speech, while limiting free reach of content that poses societal harm at scale. For example, we heard that a simple change—introducing more friction into sharing on Facebook—would have the same effect on the spread of misinformation and disinformation as the entire third-party fact checking system.

We do not yet know what the Government's response to these recommendations is—that may come next week—but we do have the Elections Bill in front of us. The real government reluctance is in reform of electoral law and regulation of digital political activity. Apart from the digital imprint provisions, the Bill fails to take any account of the mounting evidence and concerns about the impact on our democracy of misinformation and disinformation. The Government are yet even to adopt the Electoral Commission report of June 2018, *Digital Campaigning: Increasing Transparency for Voters*, which called for urgent reforms to electoral law to combat misinformation, misuse of personal data and overseas interference in elections amid concerns that British democracy may be under threat. Why are these recommendations not contained in the Elections Bill? We heard in the previous debate today about the flaws in that Bill, and I am very pleased that the noble Lord, Lord Lucas, is very well aware of the deficiencies in the Bill.

How prescient was the ISC in its Russia report:

"The links of the Russian elite to the UK – especially where this involves business and investment – provide access to UK companies and political figures, and thereby a means for broad Russian influence in the UK. To a certain extent, this cannot be untangled and the priority now must be to mitigate the risk and ensure that, where hostile activity is uncovered, the tools exist to tackle it at source."

Most recently, the Committee on Standards in Public Life has made a number of other important recommendations regarding digital and social media campaigning.

But, as have heard today, this is not enough. Regulation by itself will not deal with all the issues. Even though we are facing issues that threaten democracy, we should be trying to preserve the good that the internet has done as we work to mitigate its harm to our political system. So, as well as regulation, there needs as be—as the Democracy and Digital Technologies Committee report says—public engagement to support digital understanding at all levels of society. As several noble

Lords said, including the noble Lords, Lord Vaizey and Lord Harris, and the noble Baroness, Lady Morris, digital literacy and digital skills are of huge importance, as also emphasised by the committee's report. We must do more than simply expect Ofcom—even under the chairmanship of the noble Lord, Lord Vaizey—to deliver a digital media strategy. This needs a whole-of-government and whole-of-society approach. We are supposed to be the cradle of democracy, yet the EU is way ahead of us in its proposals to regulate political advertising. This needs cross-governmental action and much greater action from social media platforms themselves.

At the end of the day, however, we need to look in the mirror. We deserve a better system. The Government are playing into the hands of those who wish to erode our democracy by digital means. Why are they intent on reducing the independence of the Electoral Commission? As the noble Lord, Lord Griffiths, said, trust in our democracy has been eroded by this Government—certainly by the negative response so graphically described by the noble Lord, Lord Mitchell. The Government must change tack and provide effective safeguards.

2.18 pm

Lord Bassam of Brighton (Lab): My Lords, like all other noble Lords who have taken part in this debate, I of course pay tribute to Lord Puttnam and his committee, which had a stellar cast and is well represented in this debate by my noble friends Lord Harris, Lord Lipsey—who gave a brilliant introduction—Lord Mitchell and Lady Morris of Yardley, as well as the noble Baroness, Lady Kidron, and the noble Lords, Lord Lucas and Lord Holmes. Lord Puttnam has been a friend and mentor to most of us and continues to be as we enter a period where we can begin to consider some of the issues raised by the report when the online safety Bill comes before us. I was also pleased to hear the noble Lord, Lord Vaizey. His speech today probably has earned him the benefit of a second interview for the role at Ofcom.

On reflection, I rather missed out getting on to this committee. I have now discovered or have invented a new phrase: committee envy, which I never thought I would experience as a Member of your Lordships' House. I was also delighted to hear in the debate from my noble friend Lord Stevenson and from the noble Lord, Lord Clement-Jones, who, as ever, managed to cram much into his 10-minute offering to your Lordships.

As the noble Lord, Lord Clement-Jones, said, it was an inspiring debate. The report itself was published very much in the context of Covid-19 nearly two years ago, but it is worth heeding Lord Puttnam's warning then and now that misinformation and disinformation should themselves be treated as deep-rooted viruses.

The committee argued in 2020 for swift action on what was then known as the online harms agenda. While the rebranded online safety Bill has since been published in draft form and scrutinised by the Joint Committee, it does not feel as if we have taken many huge strides forward since the report was published, as the noble Baroness, Lady Morris, said. The DCMS is now, it seems, regularly drip-feeding its response to the Joint Committee's recommendations, just as it has been drip-feeding its response to the online safety Bill. We hear that it may well be published next week, which will be very welcome. However, we should all remain very concerned about the lengthy gestation period of this legislation. As noble Lords said this afternoon, digital technology moves at a faster pace than we can legislate, and, given the amount of parliamentary time that the Bill will require, by the time it has completed its course it will have become out of date, and then of course we go into the lengthy period before its enactment. We will always be playing chase-up in this legislative field.

The failure to legislate swiftly is of course having real-world consequences. As many noble Lords observed today, we have witnessed the unprecedented online disinformation on Covid-19 and the development of the vaccines, which have done so much to protect us all from that disease. In recent weeks we have witnessed attempts by the Russian state and its sympathisers to undermine the West's consensus against Putin's aggression in Ukraine, including the circulation of so-called deep-fake videos on social media platforms which attempt to prove somehow that Russia is acting in self-defence. Just this week, the Russian embassy has been putting out tweets trying to create false narratives and fake news. That is dangerous for world peace—a threat to trust in good government and to democracy itself. Each time these processes go unchallenged, the potential for future disinformation campaigns grows exponentially; we must do everything we can to break this vicious cycle.

Regrettably, we continue to see the erosion of the seven principles of public life, which were originally designed to ensure trust in our democratic institutions. These are woven through the report, and valuably so. However, our own Prime Minister and his team regularly make assertions which leave fact-checkers scrambling to correct the record. Recently, Full Fact tweeted:

> "Boris Johnson has once again falsely claimed there are more people in work now than before the pandemic began. That's the SEVENTH time he's got that wrong in Parliament."

The Office for National Statistics

> "have *told him* this is wrong. He must stop saying this and correct the record."

The Prime Minister speaks convincingly of the need to stand up and defend democracy from the Russian state, but that task is as much about deeds as words. On our side, we believe he must be seen to lead by example, but recent opinion polls have consistently shown that an overwhelming majority of the public believe he is dishonest and untrustworthy. To tackle the major issues of the day like the war on Ukraine, it is ever more important that our leaders speak the truth to other people's power.

I was not intending to ask for updates on the online safety Bill today because we have heard that it may well be coming. As disappointing as the delays have been, it seems that there is finally some evidence of action. However, in his response could the Minister roughly sketch out the Government's timetable for this, because that would be a service to the House and to public debate? We hope to see it introduced prior to the Queen's Speech—we hear that it may well be—so

[Lord Bassam of Brighton]
that MPs can begin tabling and debating important amendments between the gracious Speech and the Summer Recess.

One of the key areas identified by the committee related to electoral law, and we have heard much this afternoon on that topic. It is disappointing that the Government have chosen to prioritise requiring personal ID at polling stations over all the other sensible recommendations relating to electoral law and the requirements for online political advertising. The Government's legislation currently in your Lordships' House will, despite the protestations of the noble Lord, Lord True, disfranchise legitimate voters and severely undermine the democratic process; whereas adopting the Law Commission's recommendations and others could have strengthened our elections and therefore public trust in political personalities and institutions, as the noble Lord, Lord Lipsey, argued.

The failure to act on online adverts is perhaps unsurprising. During the 2019 election, analysis by the organisation First Draft suggested that 88% of Facebook ads posted by the Conservative Party pushed statistics that had been disputed by Full Fact, the UK's leading fact-checking organisation. Let us hope that the changes we need, as we approach the next general election, come to this use and abuse of statistics. The committee's proposed rules on online imprints and enhanced transparency measures for digital adverts would not have prevented all instances of misleading material, but they may have made creators think twice and provided the Electoral Commission with extra tools when considering compliance issues.

It is incumbent on all of us to nurture our democracy; it is far more important than the fortunes of any political party at the next election or the ego of any individual politician. The Government's response to the committee's report in September 2020 was far from convincing. Perhaps the Minister will tell us how many of the 45 recommendations the Government decided to act on and take forward, and how many of them they support. The Government's actions since the publication of their response have done little to convince us in restoring public trust, although that is increasingly desirable.

The Minister is fair-minded, and I am sure he will do his best to defend the Government's record. If only he and his colleagues put as much effort into defending our democratic traditions, we might find ourselves in a more favourable position, with our digital economic strength advancing the democratic cause at this crucial time in our history.

2.27 pm

The Parliamentary Under-Secretary of State, Department for Digital, Culture, Media and Sport (Lord Parkinson of Whitley Bay) (Con): My Lords, it would be churlish in the extreme, as a Minister appointed more than a year after this report was published, and given that the intervening months have seen the retirement of the noble Lord who chaired the committee which produced it, not to begin by recognising that this debate has been too long in coming. I am very sorry that we have not had the benefit of the active participation of Lord Puttnam in today's debate, but I am very glad to see him, as all noble Lords who spoke have noted, sitting on the steps of the Throne. I was struck by the way his spirit and the work he led in chairing the committee have suffused today's debate.

I am very grateful to the noble Lord, Lord Lipsey, for stepping into the breach and outlining not only the hard work that went into the production of this report but the enjoyment that noble Lords got from their work. I am pleased Lord Puttnam was here to hear that. If there is any benefit from the delay in having this debate, it is that there are further examples, as the report rightly anticipated, which underline the importance of this topic—not least, of course, the very troubling situation in Ukraine.

Russia continues to use disinformation to attempt to justify its military action against Ukraine, and that is straight out of Russia's playbook. We have already declassified compelling intelligence exposing Russian intent to install a puppet regime in Ukraine, and we will continue to disclose any Russian use of cyberattacks, false-flag operations or disinformation. Accompanied by baseless rhetoric and disinformation, as the noble Lord, Lord Bassam, rightly noted in his speech just now, Russian authorities falsely cast Ukraine as a threat to justify their aggressive stance. This is a transparent attempt at disinformation to provide a pretext for military action. In total, more than 100 different stories promoting unfounded claims around pretexts for invasion were identified as being disseminated by Kremlin-controlled media in February alone. The world can now see through the Kremlin's lies and we will hold them to account by telling the truth about Russia's illegal, pre-planned and reprehensible actions.

I turn to the substance of our debate and the recommendations of the committee's report. I will begin, as the committee did, with the importance of informed citizens. I was pleased that the report recognised the vital role of local and public-interest journalism, and I agree wholeheartedly. I had the pleasure of discussing that issue with noble Lords in what I think was my first appearance at the Dispatch Box in my role at DCMS, in response to the Communications Committee's excellent report on the future of journalism, which my noble friend Lord Vaizey of Didcot and others rightly mentioned. The noble Lord, Lord Griffiths of Burry Port, is right to point to the organic interconnectedness of the many debates that we have been having on these issues.

As the report recommended, the Cairncross review has served as the foundation for our work to support the sustainability of that important sector. We agreed with the majority of the recommendations made by the review and have been taking them forward through a range of fiscal and regulatory interventions.

The committee made recommendations regarding online safety legislation, which a large number of speakers understandably touched on in their contributions today. I welcome and endorse what the committee said about the importance of the online safety Bill and confirm that the Government are working to introduce that world-leading legislation, which will ensure that platforms are made accountable for the harmful content on their sites, as swiftly as possible. I am afraid I

cannot give quite as much detail as the noble Lord, Lord Bassam, and the noble Baroness, Lady Kidron, might hope, other than to say that they will not have to wait much longer.

The committee rightly notes the real harm caused by disinformation and misinformation and recommends that it be covered by the online safety Bill. I can confirm that, as the committee recommended, disinformation and misinformation are within the scope of that Bill, which will address content that is illegal, that is harmful to children and certain types of legal content that is harmful to adults.

The Government agree with the committee that service users must be empowered to seek action, both if they encounter harmful content on a regulated service and if they think that the service has treated them or their content unfairly. All companies in scope of the new regulations will have a legal duty to have effective and accessible user reporting and redress mechanisms.

I recognise the committee's specific recommendation to establish an independent ombudsman for the online safety regime. We will continue to consider that proposal and will respond to it in due course. However, it should be noted that the online safety Bill already provides a suite of provisions to ensure that users can complain to platforms and that appropriate action is taken. Shifting responsibility for user redress to an ombudsman may disincentivise companies from taking responsibility for the concerns of their users, which is a key objective for the new regulatory framework.

That framework involves a key role for Ofcom. I am sure that my noble friend Lord Vaizey of Didcot will understand that I cannot comment on the process to appoint a new chairman, but I am sure he and all the candidates acquitted themselves well enough to deserve a hug. Where companies fail to comply with their duties, Ofcom—under its new chairman—will have the power to impose substantial fines of up to £18 million or 10% of global annual turnover, whichever is higher; to direct companies to take specific steps on their platforms to come into compliance; and to apply to the courts for business-disruption measures, including blocking sites. Therefore, it will have the robust powers of sanction that the noble Lord, Lord Stevenson of Balmacara, rightly said were important.

Echoing a number of the committee's points on the importance of transparency, the Bill will also give Ofcom powers to obtain the information that it needs to regulate effectively. The Bill contains provisions requiring Ofcom to publish a report on access to online safety data by researchers and gives them the power to produce guidance on that as necessary. Ofcom will also have the power to enter premises and inspect, operate and, in some cases, seize documentation and equipment. These powers could also be used in relation to the operation of companies' algorithms, a point brought up by the noble Lord, Lord Stevenson, and others. The Bill will also require companies to mitigate the risks of harm associated with algorithms.

The committee also made recommendations on regulatory digital capacity more broadly. As set out in the plan for digital regulation, the Government are committed to ensuring that our regulators have the right capabilities and expertise to regulate effectively and proportionately. That is why are taking action, including by supporting Ofcom as it prepares to deliver the online safety Bill, working with the Competition and Markets Authority to maximise operational readiness for the new pro-competition regime, reforming the Information Commissioner's Office to ensure that it remains a world-leading regulator, and working with the Digital Regulation Cooperation Forum to develop its collective capabilities through knowledge exchange on cross-cutting topics.

As the committee rightly noted, and as the noble Baroness, Lady Morris of Yardley, reinforced in her contribution, another critical part of ensuring that people are engaged is making certain that they have the skills to empower them to be digitally literate and engage critically with content they see online. That is why in July 2021 the Government published our *Online Media Literacy Strategy* and accompanying action plan, which sets out a range of work that the Government are funding or leading over this financial year. This includes measures recommended by the committee, such as developing a "train the trainer" programme. We have committed to an annual action plan for at least the next three years, but this is, as the noble Baroness said, an area where collective endeavour is needed. I have the privilege of being the Minister responsible for libraries, which are critical in the provision of trusted and accurate information. In my capacity as Arts Minister, I had an interesting discussion this week with Art UK, learning about its programme on the superpower of looking and equipping people with the critical skills to look at the material that they see before them.

The noble Baroness is right that it is important to understand what works, and the Government are committed to addressing the lack of sound evaluation across the media literacy landscape as set out in our online media literacy strategy. Along with the strategy we published a report presenting our mapping of all UK media literacy activity, including the extent to which initiatives have been evaluated. This report sets out our assessment of those evaluations and made recommendations on how interventions and evaluations could be improved in future. We also continue to monitor evidence generated in this important policy area by partners internationally, including in America and Australia and by the European Commission.

Turning to democratic processes, the United Kingdom has a strong tradition of robust political debate and freedom of speech, of which we can all rightly be proud. Protecting this and the integrity of the electoral process is vital. The committee noted the need for an update of electoral law. The Government agree, and the Elections Bill currently before your Lordships' House will strengthen the integrity of elections so that our democracy remains secure, modern, transparent and fair. Like other noble Lords, I note our previous debate. The Bill prioritises critical reforms in key areas, delivering on manifesto commitments, including introducing voter identification at polling stations to prevent voter fraud, removing the 15-year limit for overseas electors, restricting foreign spending at elections and tackling candidate intimidation.

[Lord Parkinson of Whitley Bay]

The Bill includes a number of measures recommended by your Lordships' committee, such as the introduction of a digital imprints regime, as the noble Lord, Lord Lipsey, noted in his opening speech, which will require political campaigners explicitly to show who they are and on whose behalf they are promoting digital campaigning material. The Bill introduces a new lower registration threshold for third-party campaigners spending more than £10,000 during the regulated period before an election. Recognising the importance of enforcement, the regime also includes a general duty on any organisation or person to share information requested by the Electoral Commission.

The Government agree with the committee and the noble Lord, Lord Harris of Haringey, with regard to the risk that disinformation and misinformation pose to the integrity of the democratic process and are taking a range of actions to address this, including through the counterdisinformation unit and the steps we are taking through the online safety Bill. We are committed to defending and encouraging political debate. It is for this reason that content of democratic importance and journalistic content are protected in the online safety Bill and that the Bill contains strong safeguards for freedom of expression.

In connection with the Elections Bill, the noble Baroness, Lady Fox of Buckley, is right that policy and political arguments, which can be rebutted by rival campaigners in a free press as part of the normal course of political debate, should not be regulated. It is a matter for voters to decide whether they consider materials accurate. Electoral regulation should empower voters to make those decisions, not dictate to them. We have a tradition of robust political debate and free speech in our democracy. It is not for state quangos to regulate what candidates and political parties say when making their case to the electorate.

Similarly, while digital technology has a vital role to play in facilitating engagement with the democratic process, it is important to strike a balance between accessibility and security. As part of the introduction of voter ID at polling stations, we are also developing an online system for electors who do not have a suitable form of identification to get a free voter card. This will accompany a paper-based route for those who need to use it. Furthermore, we are changing legislation and developing a system to allow voters to apply for a postal or proxy vote online, which will ensure that electors have both digital and non-digital routes to play their part in the democratic process. At the same time, we are introducing identity verification for absent vote applications to ensure that that process is protected from fraud.

We are witnessing a rapid expansion of the role that digital technology plays in all aspects of society. We must ensure that people are empowered to make the most of this moment while remaining vigilant against the challenges that new technologies can present. Noble Lords have been right to point to some of the benefits that can accrue from those changing technologies, but they are absolutely right to point also to the challenges and threats that they pose. We will rightly debate these in great detail very soon when we debate the online safety Bill. We are debating them already in your Lordships' House in the context of the Elections Bill. I look forward to more debates on this important topic.

I conclude by reiterating my tribute to Lord Puttnam and to the noble Lord, Lord Lipsey, and to all noble Lords who served on the committee and others who have spoken in today's debate. I thank the noble Lord for bringing the debate to the House.

2.42 pm

Lord Lipsey (Lab): My Lords, I thank the Minister for his reply, which, besides its other virtues, was continent in the time it took given the richness of the debate. I thank everybody who took part; I honestly think that it is—and will read as—one of the best debates I have heard in this House. Its blend of expertise, eloquence and passion could act as a tutorial on the main issues facing us to anybody who reads it. Anyway, it is late, and time to go home. I beg to move.

Motion agreed.

House adjourned at 2.42 pm.