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PARLIAMENTARY DEBATES
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HOUSE OF LORDS
OFFICIAL REPORT

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The abbreviation [V] after a Member's name indicates that they contributed by video call.

The following abbreviations are used to show a Member's party affiliation:

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

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

House of Lords

Tuesday 14 June 2022

2.30 pm

Prayers—read by the Lord Bishop of Southwark.

Introduction: Lord Bellamy

2.37 pm

Sir Christopher William Bellamy, QC, having been created Baron Bellamy, of Waddesdon in the County of Buckinghamshire, was introduced and took the oath, supported by Baroness Scott of Bybrook and Lord Anderson of Ipswich, and signed an undertaking to abide by the Code of Conduct.

Carers: Unpaid Leave
Question

2.42 pm

Asked by ***Baroness Pitkeathley***

To ask Her Majesty's Government when they intend to introduce a right to one week's unpaid leave for those with caring responsibilities.

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Callanan) (Con): My Lords, we recognise the important contribution of carers across the country who give their time to look after others. The Government are determined to do all they can to support those balancing work and caring. Legislation to deliver our commitment to introduce one week of unpaid leave for unpaid carers will be brought forward when parliamentary time allows.

Baroness Pitkeathley (Lab): I thank the Minister for his response, but he will not be surprised to know that I am somewhat disappointed. It is now almost three years since the Conservative Party manifesto pledged to give carers five days' unpaid leave per year—a modest enough request, I think your Lordships will agree. It was seen as a very important component of helping carers deliver social care while staying in paid work. It is very much supported by employers, who see it as helping their bottom line because it helps with recruitment and retention, and 90% of the public think it is a good idea. Here is a policy that costs nothing, supports social care and is hugely popular. Why are the Government delaying?

Lord Callanan (Con): Well, I said that we are committed to this, and we will of course act when parliamentary time allows. To be fair, if employers are supportive, they can do it anyway; they do not need legislation. I give the noble Baroness an assurance that we will work with parliamentarians to see whether there is an alternative vehicle that could deliver this legislation.

Baroness Finlay of Llandaff (CB): My Lords, do the Government recognise that it is a good investment to allow people unpaid leave when they are under enormous pressure? Without doing that, you end up having people with mental health disorders and an ongoing cost to society in the future through sick leave and so on. I hope that the Government will recognise that and, when it comes to those eligible for SR1 benefits, make it one month of unpaid leave.

Lord Callanan (Con): We certainly recognise the value of carers, and indeed they have a substantial package of support. As I said, we are committed to this policy and to legislating on it.

Baroness Tyler of Enfield (LD): My Lords, research has shown that the average person has a 50/50 chance of caring by the age of 50—that is, a long time before they reach retirement age. However, on average women can expect to take on caring responsibilities more than a decade earlier than men. What assessment have the Government made of the impact of not legislating to introduce carers' leave on women in particular, and what plans do they have to publish that assessment?

Lord Callanan (Con): The noble Baroness is certainly right. We know that many carers experience considerable challenges in balancing work with their caring responsibilities, which is why we consulted on the policy in the first place.

Baroness McIntosh of Hudnall (Lab): My Lords, how much parliamentary time would the Minister estimate—

Baroness Altmann (Con): Would my noble friend recognise that there is a significant labour shortage? Part of the problem has been with the Great Retirement or Great Resignation. A number of older workers have withdrawn from the labour market during the pandemic, partly because of the problems experienced in care homes. With an ageing population and increasing numbers of people who are going to need to look after older relatives, would the Government consider leave along the lines of maternity leave for those in later life who need to organise some care for loved ones, so they do not leave the workforce and never return?

Lord Callanan (Con): Of course, we want to see people supported in the workforce as much as possible, which is why we introduced a right to request flexible working, and many employers have been able to work with their employees to grant that—but my noble friend makes an important point.

Baroness McIntosh of Hudnall (Lab): My Lords, I think that the Minister probably knows what I am going to ask him, but I shall have another go. How much parliamentary time does he estimate that it would take to put this very modest measure through? Is parliamentary time in such short supply that it cannot be found?

Lord Callanan (Con): Well, I suppose the answer to the noble Baroness's question is that it depends on how much time Parliament chooses to spend on particular legislation. Obviously, we were committed to an employment Bill. The Queen's Speech set out a packed and ambitious legislative programme, with a comprehensive set of Bills that will enable us to deliver on priorities such as growing the economy, and so on—and I am sure that noble Lords will spend a large amount of time on studying those Bills. We are committed to that legislation, as I said to the noble Baroness, Lady Pitkeathley, and we will look for alternative vehicles and work with parliamentarians to try to deliver what is a manifesto commitment.

Baroness Watkins of Tavistock (CB): My Lords, can the Minister explain whether the Government have considered how many carers might be able to return to work if this provision were available to them, and whether secondary legislation could be used to introduce this simple measure?

Lord Callanan (Con): My understanding is that it would need primary legislation.

Baroness Chapman of Darlington (Lab): My Lords, it would not take very much parliamentary time—it could be done as a handout Bill to a keen Back-Bencher in the other place—so I do not think that the Government need to worry too much about that. However, when it is introduced, will the Minister make sure that measures in it include people caring for those who are suffering from a terminal illness?

Lord Callanan (Con): The noble Baroness makes an important point. As I said, we will look for alternative vehicles to deliver this policy. For the details, we will of course look at any proposals in potential legislation.

Lord Jones (Lab): My Lords, further to the deeply committed remarks of the noble Baroness, Lady Pitkeathley, how can we, as a nation, more generously and more widely acknowledge the magnificent contribution of carers—perhaps more than 1.5 million of them in Britain? Is it not a great army that is low paid and yet works so hard every day? Is not caring in a home very demanding of skill and application? Why not institute some form of national awards, perhaps decided by the centre, to encourage and help carers to give even more for those who need?

Lord Callanan (Con): The noble Lord is absolutely right. Certainly, that is a good suggestion, and I shall take it back for the department to have a closer look at. It would seem like a good idea. I remind the House that we have a substantial programme of support in place—as we saw only recently in the crisis—for carers and others. Low-income households benefit from a means-tested benefit cost of living payment of £650. Those living in the same household as a disabled person for whom they care get £150. Families with a pensioner in the household benefit from a pensioner cost of living payment of £300—and that is just in the latest package of support offered by the Chancellor. So of course there are always other things that we can look at, but we are fulfilling our responsibilities to the caring community.

Lord Forsyth of Drumlean (Con): My Lords, if we can spend a whole day on 5 July discussing our sitting hours, could we not spend that day bringing forward a Bill that could complete all its stages instead?

Lord Callanan (Con): The business managers would point out that it probably takes a lot more than a day to deliver important legislation such as this, which includes going through the proper and appropriate scrutiny and procedures. My noble friend has been critical of me in the past when we have brought forward emergency legislation without the appropriate scrutiny.

Baroness Garden of Frognal (LD): My Lords, if parliamentary time is really the problem, I suggest to the Minister that we scrap the rest of the Schools Bill —which is being trashed from all sides, not least from his own Benches—to give us at least another two and half days in which to debate this important measure.

Lord Callanan (Con): The noble Baroness is asking me questions that are way above my pay grade.

Lord Hunt of Kings Heath (Lab): My Lords, there is also a Northern Ireland Bill which the Government might reconsider, but I want to ask a serious question. It is well known and researched that carers, in general, suffer from worse mental health issues than a comparative population. Will the Minister's department discuss with the Department of Health and Social Care more programmes to support carers on mental health issues? This will have a positive impact on the world of work as well.

Lord Callanan (Con): On the noble Lord's first comment, I am sure that the Opposition have a long list of Government Bills they would rather drop in favour of this one; let us take it as read that we can agree on that. The noble Lord makes a sensible suggestion, and I will certainly take it back.

Baroness Butler-Sloss (CB): My Lords, will the Minister take this back to the department and say how strongly the House of Lords feels about it?

Lord Callanan (Con): Yes, of course.

Lord Young of Cookham (Con): My Lords, in response to an earlier question, my noble friend the Minister said that employers were free to grant one week's unpaid leave already. Is it the case that government departments do this?

Lord Callanan (Con): That is a good question to which I do not know the answer; I will get back to my noble friend on that.

Lord Hendy (Lab): I invite the Minister to consider, within his department, whether this change could not be brought about by a tweaking of the Working Time Regulations, which are secondary legislation?

Lord Callanan (Con): No, as I said in response to an earlier question, my understanding is that this needs primary legislation. I will certainly check that, but I do not think the noble Lord is correct.

Fur: Import and Sale

Question

2.52 pm

Asked by ***Baroness Jones of Moulsecoomb***

To ask Her Majesty's Government whether they intend to introduce legislation in the current parliamentary session for a ban on the import and sale of fur.

The Minister of State, Department for the Environment, Food and Rural Affairs and Foreign, Commonwealth and Development Office (Lord Goldsmith of Richmond Park) (Con): My Lords, the Government have committed to exploring potential action in relation to animal fur, as set out in the *Action Plan for Animal Welfare*. We have since conducted a call for evidence on the fur sector and engaged further with interested parties. We are continuing to build our evidence base, which will be used to inform any future action on the fur trade.

Baroness Jones of Moulsecoomb (GP): That did not sound like a yes. In fact, this is a government promise; I do not understand why the Government have such problems promising and then not delivering. A few articles in newspapers in February said that the blockage for all cruelty-free animal welfare legislation was Jacob Rees-Mogg. Why is one senior person in the Conservative Party blocking all the legislation that so many people in Britain want to see enacted?

Lord Goldsmith of Richmond Park (Con): My Lords, I share the noble Baroness's passion on this issue—as she knows—and her frustration with some of the blockages that have got in the way of a whole range of animal welfare legislation. However, it is not true to say that all our legislation has been blocked. We have achieved an enormous amount in the last two years. We have increased sentences for animal cruelty from six months to five years; recognised the sentience of animals; banned glue traps for rodents; and enacted and extended the ivory trade ban, which is now the strongest in the world. We are currently in the process of banning the live export of animals for slaughter and banning the keeping of primates as pets. Although I am running out of time for this answer, there is a whole range of things of which we can be proud—but, like the noble Baroness, I hope we can do more.

Baroness Fookes (Con): My Lords, I am extremely disappointed by that reply, as my noble friend will probably register. It is not satisfactory and I ask the Minister to take urgent steps to make sure that this comes on to the statute book in this Session.

Lord Goldsmith of Richmond Park (Con): I can certainly provide an assurance that I will do what I can to ensure that this measure is brought through, along with a whole bunch of other measures which appeared in what I thought was an excellent *Action Plan for Animal Welfare*.

Baroness Bakewell of Hardington Mandeville (LD): My Lords, the Animal Welfare (Sentience) Act has now passed into law. If the Government are serious about upholding the principles and ethos of this Act, surely they should be banning the import and sale of fur. While it may have been acceptable to possess a fur coat many decades ago, this is no longer the case. For mink to be bred in inhumane conditions just to provide a fashion item is unacceptable. Does the Minister agree?

Lord Goldsmith of Richmond Park (Con): My Lords, I start by saying that the fur trade body headed, I think, by a former colleague of the noble Baroness, is extremely litigious and I find myself on the wrong end of numerous threatening letters, so I have to be careful what I say. She makes a very strong point, but the UK was one of the first countries to ban fur farming domestically. It was a position we took many years ago and was followed rapidly by a whole range of other countries across the EU, leading all the way up to Ireland, which only two months ago banned fur domestically. Where Britain treads, others often follow.

Lord Bellingham (Con): My Lords, can the Minister assure the House that if a ban is brought in, there will be an exemption for military bearskins, which are part of a very important ceremonial tradition going back nearly 300 years, so long as the black bear fur is humanely and sustainably harvested?

Lord Goldsmith of Richmond Park (Con): My noble friend will understand that I cannot go into the details of what legislation might look like, other than to say that there would be a consultation process and there would almost certainly be exemptions—for example, for religious and cultural reasons. We certainly would not want to prohibit the use of second-hand fur or the repurposing of old products. I can tell my noble friend that Defra policy officials are currently engaging in discussions with the Ministry of Defence on the issue he just raised, and those conversations are ongoing.

Baroness Hayman of Ullock (Lab): My Lords, the promise to ban the import and sale of fur is part of the animals abroad Bill. I do not doubt the Minister's commitment to this, but it was missed out of the Queen's Speech. There is cross-party support and clear and persistent public support for banning the import and sale of fur, so can the Minister explain why the animals abroad Bill was not in the Queen's Speech, and what has happened to the rest of the promises in that Bill?

Lord Goldsmith of Richmond Park (Con): My Lords, a number of issues were destined at one point to appear in the so-called animals abroad Bill. Those measures have not been dropped, although the Bill was not listed in the Queen's Speech. It is certainly my ambition, an ambition shared across government, with perhaps one or two exceptions, to see these measures introduced in different forms over the course of this Session.

The Earl of Erroll (CB): Does the Minister agree that fake fur is made from plastic microfibres, which poison the oceans and kill fish? What we should be using is a sustainable, natural, biodegradable resource such as real fur.

Lord Goldsmith of Richmond Park (Con): My Lords, I am certainly no fan of the inappropriate use of plastics, which are, as the noble Earl says, choking the oceans and have done more damage in one generation than it is almost possible to imagine. However, he is talking about an extremely niche part of the clothing sector. Of the overall volume of clothing created, the amount that is or could ever be real fur, even if we were mad enthusiasts for fur, would be such a tiny part that there are bigger fish to fry. A more important focus for the Government to look at is how we can use more sustainable products for the clothes we use.

Baroness McIntosh of Pickering (Con): My Lords, will my noble friend explain why the Government would wish to ban the import of rabbit-fur articles? Is he aware that at the moment it is not possible to export any live animal for breeding purposes anywhere in Europe, because there are simply no facilities that will take them? Will my noble friend use his best authority to research this and make sure that that trade resumes? It is an extremely important trade for the farming industry and one that has suffered grave losses at this time.

Lord Goldsmith of Richmond Park (Con): I apologise to the noble Baroness; I did not hear the first part of the question. If she is asking about the merits of using rabbit fur—if not, I will certainly write to her and provide clarity—the arguments against farming any animal for fur are usually around the conditions in which those animals are kept and subsequently slaughtered. I think that is the principal reason that what seems like a clear majority of the British public opposes fur farming.

Baroness Hussein-Ece (LD): My Lords, a year ago the Government launched an appeal for evidence to progress the banning of the animal fur trade. A year later, can the Minister say when we will see the results of that report and public consultation?

Lord Goldsmith of Richmond Park (Con): We issued a call for evidence and received around 30,000 responses. The processing of those results is almost complete and the government response will be published in due course. I am afraid I cannot say more than that.

Elections: Multiple Voting

Question

3 pm

Tabled by ***Baroness Featherstone***

To ask Her Majesty's Government what estimate they have made of the number of electors who vote more than once in an election because they are registered at two separate addresses.

Lord Razzall (LD): My Lords, I beg leave to ask the Question standing on the Order Paper in the name of my noble friend Lady Featherstone.

The Minister of State, Home Office and Department for Levelling Up, Housing & Communities (Lord Greenhalgh) (Con): The Government do not hold data on whether individual electors registered at more than one address have voted more than once in an election.

Lord Razzall (LD): My Lords, I assumed that would be the Answer. Does the Minister not agree that it is quite confusing for electors registered in more than one place? They can vote in local elections for both their residences and even in a by-election if it takes place where they are registered. Does he accept that it might be sensible for an indication to be given when you register to vote, either on the form or at the time of registration, that if you are registered in more than one place then you cannot vote twice in a general election?

Lord Greenhalgh (Con): My understanding is that it is made clear that you cannot vote twice in a general election. Indeed, it carries a criminal offence. You now have to prove your residence as part of the electoral registration process, but I will take that point on board.

Baroness Hayter of Kentish Town (Lab): My Lords, the Government have now said that they will allow people who have been out of the country for more than 15 years to go on the register. Presumably, if they have two houses abroad, they will be able to go on it twice. What checks will there be to make sure they do not vote more than once?

Lord Greenhalgh (Con): The purpose of the Elections Act was to ensure that we did not have this arbitrary cut-off point. Those living abroad have always been able to vote in elections for up to 15 years, which we have now extended as part of that legislation. People cannot vote in local elections if one of their properties is, let us say, in Spain, so I do not think that arises.

Lord Naseby (Con): My Lords, as one who was first elected to the other place with a majority of 179, after three recounts, and later in that year by 141, is not the proposition from the noble Lord on the Liberal Benches correct? Otherwise, there will be tactical voting by students in marginal seats.

Lord Greenhalgh (Con): I guess people can decide to vote where they want to if they are registered in two places, but in a general election they cannot vote twice. Whatever the system, I am sure that my noble friend could be elected if he stood again, even if in the past it was by a pretty narrow margin.

Lord Reid of Cardowan (Lab): My Lords, with apologies to the noble Lord, Lord Razzall, and the noble Baroness, Lady Featherstone, will the Minister recognise that this problem would be easily solved—as would the problems of fraudulent voting, control of immigration, access to public services and counterterrorism—if the coalition Government had not in 2010, at the behest of the Liberal Democrats, abolished biometric ID cards?

Lord Greenhalgh (Con): This is something of a Groundhog Day Question, as we look back in time. As part of the Elections Act, we have introduced voter identification as a means of reducing electoral fraud.

Lord Geddes (Con): My Lords, the original Question just referred to the word "elections". Would my noble friend concur that it is entirely legitimate to vote more than once at a local election?

Lord Greenhalgh (Con): Of course; to make it absolutely clear, where you pay council tax on two properties, you can vote legally in their local elections. Approximately 495,000 households can legitimately do so.

Lord Kennedy of Southwark (Lab Co-op): My Lords, could the Minister estimate how many eligible citizens are not registered to vote? What action is the Minister and his department taking to rectify that situation? Today of all days, can we also remember the 72 victims who lost their lives in the fire at Grenfell Tower five years ago today?

Lord Greenhalgh (Con): My Lords, it is very important to mark the Grenfell tragedy in which 72 lives were lost—the largest loss of life in a residential fire since the Second World War. As the noble Lord knows, with his background in local government, we have a system of electoral registration officers—EROs—who know their patch very well, and they go out and do great work in terms of expanding voter registration. This is very much a locally led matter; we have not looked to centralise the electoral registration process.

Lord Beith (LD): My Lords, neither an identity card nor any other form of identification takes away the problem that there is no data collected on the extent of multiple registration. In the absence of such data, it cannot be monitored. Moreover, the figures given for whether there was a high or a low poll do not make any sense at all, because in a constituency with a large number of people who are registered elsewhere, it would be quite impossible to gain the 80% or 85% poll that I had when I was first elected to Parliament.

Lord Greenhalgh (Con): If we look at the levels of allegations of electoral fraud in the first instance, which the police do in collaboration with the Electoral Commission, they are relatively low for a country of over 60 million people. Convictions are also relatively low. We have a system where we are strengthening the process with regard to the use of voter identification when you go and vote, and we have also strengthened the approach to registration by introducing individual electoral registration. I am sure that further improvements can be made over time.

Viscount Brookeborough (CB): My Lords, would the Minister like to recognise that his answers smack of the Government burying their head in the sand and not accepting that some malpractices do go on? Those of us who have lived in Northern Ireland—where the motto used to be, "Vote early, vote often"—know that where there is election, there will be fraud. Does the Minister not agree that the Government should pay much more attention to what is going on out there in the country?

Lord Greenhalgh (Con): I do not accept that, unsurprisingly. The Elections Act was guided by the Government's determination to ensure that our democracy is secure and transparent, and we have sought to place participation at the heart of our democracy. The Act was developed in collaboration with people within the electoral services, following on from the recommendations of my noble friend Lord Pickles.

Lord Hannan of Kingsclere (Con): My Lords, the United Kingdom is the only one of 47 European democracies that does not require some kind of photo ID to vote. It is not even the whole of the United Kingdom, as we have just heard—it is only Great Britain. Given that huge parts of the world in Asia and Africa deal with problems of poverty, illiteracy and remote voting stations and all manage to have some kind of ID without reducing turnout, is it not time that we joined the rest of the world?

Lord Greenhalgh (Con): As part of the Elections Act, we have introduced a requirement that you have to present some form of ID in order to vote. That should give the public greater confidence, and we are joining Northern Ireland and following its lead.

The Lord Speaker (Lord McFall of Alcluith): My Lords, we have a virtual contribution from the noble Lord, Lord Campbell-Savours.

Lord Campbell-Savours (Lab) [V]: My Lords, the Minister may in reply to my noble friend Lord Reid of Cardowan say, "No", but how can he challenge the proposition that an ID card number, with its unique personalised identifier, is impossible to misuse in a system that is electronically secure and at the same time capable of capturing data that exposes repeat voting? Ministers can oppose the card's introduction but cannot challenge the efficacy when the evidence is overwhelming.

Lord Greenhalgh (Con): The point I was making in response to the noble Lord, Lord Reid, was that that is a battle that was lost. I am sure you can make the case for biometric voter ID, but the point is that the Elections Act introduces the need to produce some form of identification when you go and vote, and that is certainly a step forward.

Lord Cormack (Con): But is it not right to have the battle again, because there are other advantages? For a start, it is much cheaper than a ticket to Rwanda.

Lord Greenhalgh (Con): I am sure that noble Lords will always return to fight these battles again and again. Obviously, we have set out our legislative priorities and we have introduced already some measures that will improve the electoral process.

Baroness Deech (CB): My Lords, I feel quite envious when I hear of people who have two votes. By what logic do noble Lords here in the House of Lords have no vote at all?

Lord Greenhalgh (Con): To be honest with your Lordships, when I joined this House, I was not entirely aware of that particular provision—it is a disappointment. However, obviously that is the long-standing convention. Of course, we can still vote twice in local elections if we are lucky enough to have two homes.

Viscount Stansgate (Lab): My Lords, in view of the point made about two separate addresses, can the Minister tell the House whether the Prime Minister is registered to vote at Chequers?

Lord Greenhalgh (Con): Unsurprisingly, I do not know the answer to that, but I am sure that he is able to vote because that is one of his current properties.

Personal Protective Equipment: Waste

Question

3.11 pm

Asked by ***Baroness Merron***

To ask Her Majesty's Government what assessment they have made of the expenditure on unusable and excess Personal Protective Equipment (PPE), and the reasons for the waste.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Kamall) (Con): We have delivered over 19.8 billion items of PPE to keep front-line staff safe. Facing a dangerous virus, and against the background of no vaccine, as well as rising demand, market disruption and panic buying, we procured as much PPE as possible rather than too little. Only around 3% of PPE that the department purchased is unusable, and we are working with waste providers to dispose of unusable stock in the most environmentally friendly and energy-effective way.

Baroness Merron (Lab): My Lords, £9 billion was wasted on PPE due to obscenely inflated prices, irregular payments to intermediaries and faulty kit which is now poised to go up in smoke, along with nearly one in four of the contracts in dispute around products which are not fit for purpose or where allegations of slavery have been made. We know that the Government were responding to an unfolding crisis, but how was this shameful episode allowed to go unchecked and why has the department been allowed to establish a track record for not following public spending rules?

Lord Kamall (Con): We have to go back and remind ourselves of the situation in 2019 and 2020. We have to remember that, at the time, there was no vaccine and the whole market suddenly panicked—people were competing with each other to buy equipment. We heard stories of government officials sitting in factories with suitcases of cash, trying to make sure that they could buy material at the best possible prices, and at the same time we saw containers being redirected at sea and people being gazumped. We therefore made the decision at the time, without being accurately able to predict how much PPE equipment we needed—no one could have done so—to procure as much as possible.

Baroness Meacher (CB): My Lords, I appreciate the very real time pressure at the beginning of the pandemic. However, a few days spent to ensure high-quality PPE through some form of competition would have saved lives. Will the Minister tell the House how many contracts were agreed through a personal contact, without any form of competition at all, in that first year?

Lord Kamall (Con): The noble Baroness will recognise that I was not in post at the time, but I have been advised by officials in the department that they put feelers out to as many people as possible. Government officials, Members of the House of Lords and politicians from all parties were suggesting companies, and that was put through a process whereby the department made an assessment of whether it was able to award contracts.

Lord Scriven (LD): My Lords, the National Audit Office found that the department is currently spending approximately £7 million a month on storing 3.9 billion PPE items that it does not now need. That is the equivalent of employing 2,400 extra nurses a year. Why are Ministers allowing this waste of taxpayers' money to continue?

Lord Kamall (Con): The noble Lord is absolutely right that we are paying storage costs, and over the last few months there has been a reduction in storage and the Government have been looking at more cost-effective ways. However, the overall strategy—and why we have two lead waste providers looking at the issue—is to ask how we can sell, donate, repurpose or recycle wherever we can. For equipment where complex chains of polymers cannot be broken down—chemists would understand this better—we are looking at how we can dispose of it in the most environmentally friendly way.

Lord Winston (Lab): My Lords, does the Minister agree that it is not just a question of a knee-jerk response at the very last minute of a new pandemic?

Various committees, including the Science and Technology Select Committee, had pointed out that a pandemic was almost inevitable and that exactly such preparations were needed some years before it actually occurred.

Lord Kamall (Con): The noble Lord is absolutely right. If we think back to swine flu in 2009 and the pandemic preparedness for that, there were such suggestions at the time and in subsequent years—we should not blame the particular party that was in power at the time—and the Government were urged to buy more and more equipment. The fact is that, had we bought it, it would have been at lower prices, and the cumulative cost of storage over the years would not have been as much as we spent recently.

The Lord Bishop of London: My Lords, I recognise the considerable pressure that the Government, the NHS and Ministers were put under, but can the Minister tell us what is being done so that we can learn from this situation and not replicate it in the next pandemic?

Lord Kamall (Con): The right reverend Prelate is absolutely right that we should learn lessons, and there are two things we can learn: one is the benefit of hindsight, and one is the fallacy of hindsight. The fallacy of hindsight is to say that, given the same pressures, I would have acted differently. We can never know whether that is true; that is counterfactual. If we look at the benefit of hindsight, one thing we can learn is that if we buy more than enough in the future, and it is the right thing to do so, we should buy equipment that is as environmentally friendly as possible so that if it needs to be disposed of it can be recycled into other items.

Lord Young of Norwood Green (Lab): My Lords, does the Minister agree that the vast majority of hospitals are using single-use PPE garments which go straight to landfill after one use? There is available on the market a product with RFI tags, which enables it to be simply laundered for 70 different uses. Should we not be investigating that if we are serious about reducing carbon emissions?

Lord Kamall (Con): I thank the noble Lord for that suggestion. I am not aware of the product to which he refers, but I should be grateful if he would write to me with more detail and I will pass it on to the department.

Baroness Manzoor (Con): My Lords, it is important that lessons are learned from the PPE purchasing, but will my noble friend the Minister say what action the Government are taking to reduce people's waiting times for surgery, diagnostic testing and clinical assessment, because that is the follow-on from the delays as a result of Covid-19?

Lord Kamall (Con): My noble friend is absolutely right that there has been an elective backlog. In analysing the backlog across the system we have found that about 75% to 80% of those waiting are waiting not for surgery but for diagnosis. This is why we have rolled out community diagnosis centres and will continue to do so, not necessarily in NHS settings but also in sports grounds, shopping centres, et cetera. On top of that, about 75% to 80% of those who require surgery do not require an overnight stay. We are trying to work through the elective backlog as quickly and effectively as possible.

Baroness Watkins of Tavistock (CB): My Lords, what investment is being made to ensure that we can make our own PPE in this country in future, because the chief problem was that we were competing in an international market in a crisis?

Lord Kamall (Con): I am not aware of detailed proposals on that but I know that there are many British companies who sourced from abroad and others that tried to manufacture. If you look at the relative costs and skills in the value chain, you will find that for many of the entrepreneurs in this country it is not cost-effective to manufacture here.

Lord Foulkes of Cumnock (Lab Co-op): Returning to the Question and putting it in some perspective, as my noble friend Lady Merron said, £9 billion has been wasted in this exercise. Is the Minister aware that that is half of the cost of Crossrail, the biggest and most complicated civil engineering project in the whole of Europe? Is this not a national scandal?

Lord Kamall (Con): I think we should look at the context of this £9 billion or £12 billion figure. We must remember that, at the time, market prices were inflated. We could not have bought the equipment at the prices you can pay for it today. The Government at the time had to make an estimate. If they had bought too little equipment, they would rightly have been criticised. Given that you can never make absolutely accurate predictions, on balance it is better to procure more than less. I was speaking to a Democrat politician from United States the other day. He said, "I just made the decision to procure as much as possible, but I knew I would get the flak afterwards. Lives were more important."

Baroness Walmsley (LD): My Lords, at the beginning of the pandemic a great deal of PPE which was in store was already out of date and could not be used. Any homemaker knows that you look at the use-by date of the stuff in your fridge and try to use it before it goes out of date. Can the Minister say whether there is now a proper record-keeping system for the use-by dates of any PPE that is in store in anticipation of any future emergency need?

Lord Kamall (Con): I think that the noble Baroness will recognise from when I was asked a previous Oral Question on this issue that where there was an official sell-by date, we had asked a couple of companies from which we had procured the equipment to look at whether that life could be extended. I am not sure of the details, so I commit to write to the noble Baroness.

Baroness Symons of Vernham Dean (Lab): My Lords, in answer to my noble friend Lord Winston, the Minister said that the storage costs would have been greater than the costs of buying the PPE at the time that we did. Can he substantiate this for the elucidation of the House in general and say what those costs would have been for storage relative to the costs that we paid in the end? Perhaps he can give us those figures. If he has not got the information readily available today, maybe he will give them within a week or so.

Lord Kamall (Con): Had we bought the PPE when it was first suggested that we should be preparing, the initial purchase price would have been lower, probably about £2.4 billion, but there would have been additional costs such as storage, replenishment of expired stock, and disposal of items, because even then there would have been items which had gone beyond their shelf life. That would have pushed the total cost to £13.4 billion.

Water Safety (Curriculum) Bill [HL]

First Reading

3.21 pm

A Bill to require the Secretary of State to include water safety and training in prevention of drowning as a compulsory part of the curriculum for all schools in England.

Baroness Janke (LD): My Lords, I draw attention to the declared and recorded interests of my noble friend Lord Storey as a patron of the Royal Life Saving Society UK.

The Bill was introduced by Baroness Janke (on behalf of Lord Storey), read a first time and ordered to be printed.

Education (Non-religious Philosophical Convictions) Bill [HL]

First Reading

3.22 pm

A Bill to make provision to include non-religious philosophical convictions within the school curriculum; to require that persons who hold non-religious philosophical convictions must be represented at standing advisory councils on religious education and at agreed syllabus conferences; and for connected purposes.

The Bill was introduced by Baroness Hamwee (on behalf of Baroness Burt of Solihull), read a first time and ordered to be printed.

Higher Education (Freedom of Speech) Bill

First Reading

3.23 pm

The Bill was brought from the Commons, read a first time and ordered to be printed.

Smoke and Carbon Monoxide Alarm (Amendment) Regulations 2022

Motion to Approve

3.23 pm

Moved by ***Lord Greenhalgh***

That the draft Regulations laid before the House on 11 May be approved.

Relevant document: 2nd Report from the Secondary Legislation Scrutiny Committee. Considered in Grand Committee on 13 June.

Motion agreed.

Police, Crime, Sentencing and Courts Act 2022 (Consequential Provision) Regulations 2022

Motion to Approve

3.24 pm

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

That the draft Regulations laid before the House on 11 May be approved. *Considered in Grand Committee on 13 June.*

Motion agreed.

Terrorism Act 2000 (Code of Practice for Examining Officers and Review Officers) Order 2022

Motion to Approve

3.24 pm

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

That the draft Order laid before the House on 11 May be approved. *Considered in Grand Committee on 13 June*.

Motion agreed.

Identity and Language (Northern Ireland) Bill [HL]

Order of Consideration Motion

3.24 pm

Moved by ***Lord Caine***

That it be an instruction to the Grand Committee to which the Identity and Language (Northern Ireland) Bill [HL] has been committed that they consider the bill in the following order:

Clause 1, Schedule 1, Clause 2, Schedule 2, Clause 3, Schedule 3, Clauses 4 to 11, Title.

Motion agreed.

UK Infrastructure Bank Bill [HL]

Committee

3.25 pm

Clause 1 agreed.

Amendment 1

Moved by ***Baroness Noakes***

1: After Clause 1, insert the following new Clause—

"Regulation

(1) In section 22 of the Financial Services and Markets Act 2000 (regulated activities), after subsection (1B) insert—

"(1C) An activity is a regulated activity for the purposes of this Act if it is an activity carried out by the UK Infrastructure Bank, a company registered in England and Wales with the company registration number 06816271."

(2) The Bank is to be treated as having been designated as a PRA-regulated activity under section 22A of the Financial Services and Markets Act 2000 (designation of activities requiring prudential regulation by PRA)."

Baroness Noakes (Con): I am disappointed that so many noble Lords find the content of the UK Infrastructure Bank Bill of so little interest that they are departing this Committee.

The Committee stage of a Bill often starts with an amendment that engages the passions of your Lordships' House and results in something close to a Second Reading debate. I am sorry to disappoint noble Lords with my rather technocratic Amendment 1, and I hope not to detain the Committee with it for too long.

The amendment seeks to bring the UK Infrastructure Bank within the regulatory ambit of both the Prudential Regulation Authority and the Financial Conduct Authority. When I raised the regulatory status of the bank at Second Reading, my noble friend the Minister told me that it would not carry out any activities that required it to be regulated by the PRA or the FCA; hence it would not be regulated by them. She also said that the Treasury would carry out the FCA's functions in relation to the senior managers and certification regime instead. I did not find that answer very satisfactory, so I tabled Amendment 1 to probe this further.

I doubt that my amendment is technically correct, given the complex structure of FSMA, and I hope that my noble friend does not feel it necessary to spend a long time telling me about the amendment's inadequacies: it is a probing amendment. I am keen to explore why the body dealt with in this Bill, which is called a bank and will carry out many activities that proper banks carry out, should be outside the reach of the financial regulators.

While specific activities drive whether an organisation is required to seek authorisation of the PRA or the FCA, once an organisation is within that regulatory scope, a number of broadly based obligations ensue. In particular, regulated firms have to comply with the PRA's and the FCA's handbooks, which contain extensive requirements aimed at a huge range of things. The SM&CR, which is dealt with in this group by Amendment 53 from the noble Lord, Lord Teverson, is just one aspect. Others include whistleblowing, risk management, outsourcing, financial crime, and systems and controls. I could go on, but my point is that a financial services body within the ambit of the FCA and the PRA is subject to extensive regulatory supervision, and this will not apply to the UK Infrastructure Bank.

The Minister said that the Treasury would be the regulators in loco for the purposes of the SM&CR, but she said nothing about the other aspects of supervision. For example, who will look at the effectiveness of the bank's risk management systems or money laundering procedures, which might be particularly relevant given the aim to crowd in investment?

3.30 pm

I do not think it is appropriate or efficient for the Treasury to set itself up as a mini regulator for these aspects. The Treasury may well understand the principles of the regulatory processes undertaken by the FCA or the PRA, but it will inevitably lack the day-to-day experience necessary to operate them and to make judgments that are in line with those made for the broader regulated financial services sector. These are not trivial issues, given the £22 billion of financial resources which could be available to the bank and the leverage of private capital intended for it.

Before concluding, I say that two amendments tabled by my noble friend Lord Holmes of Richmond are inexplicably in this group. I look forward to hearing what he has to say, but I am doubtful about his Amendment 42. Since nothing in the Bill stops the bank borrowing, I am not sure it needs to be given a specific power. The bigger issue is whether that power should be circumscribed in some way, given that extra debt will end up on the public sector balance sheet. The framework document which has been entered into between the Treasury and the UK Infrastructure Bank has limits on the bank's borrowing, but those limits are not in the Bill. There are issues to be addressed around borrowing, but not necessarily those dealt with in Amendment 42. I beg to move.

Lord Teverson (LD): My Lords, I shall speak to Amendment 53 in my name—we go from Amendment 1 right the way to Amendment 53. It is much more restricted than the amendment moved by the noble Baroness, Lady Noakes. I suppose I have been rather defeatist in this amendment, in that I have assumed that the Government will not say thank you to the noble Baroness for her amendment, which I support. I think her speech was absolutely right. This bank should be regulated like any other bank in terms of prudential regulation. If that cannot be the case, we have to ensure that employees of the bank who are making important decisions about taxpayers' money and the public sector balance sheet are fit and proper persons. The way to do that is to apply the Financial Conduct Authority's regime for management, which in ancient history I used to know as approved persons. They should keep to the regulations that come from the FCA. If it is impossible for the bank to be regulated in the way that other banks are, it is essential that we as taxpayers and as parliamentarians are confident that those employed by the bank to make those decisions are indeed fit and proper persons. That is the simple cause and reason for my amendment.

Lord Holmes of Richmond (Con): My Lords, it is pleasure to take part in this first group of amendments on the UK Infrastructure Bank. I support Amendment 1 tabled by my noble friend Lady Noakes. When my noble friend the Minister responds, will she fully explain why the bank would not wish to come under the auspices of the financial regulators—the FCA and the PRA—and why HM Treasury would not want it to do so?

My Amendments 38 and 42 have the same purpose: to underscore in the Bill the bank's operational independence from HM Treasury. Amendment 38 would put on the face of the Bill that the bank will be able to lend to whatever level and by whatever means it chooses without having to have recourse to HM Treasury. Does the Minister agree that this is implicit in the Bill and that to have this statement in the Bill would make absolute sense?

On Amendment 42, I agree entirely with the point alluded to by my noble friend Lady Noakes. The reason I bring Amendment 42 forward again is to further assert in the Bill that the bank should have the ability to avail itself of the capital markets. Does my noble friend the Minister agree that, again, having this provision in the Bill would clearly underscore the operational independence of the bank, which is espoused in all the briefing notes on the Bill?

Baroness Kramer (LD): My Lords, this group of amendments addresses two entirely different issues, as the noble Baroness, Lady Noakes, identified. I rather fear that in the minds of the Treasury they are the same issue, which is slightly unfortunate but will probably explain a great deal of our debate today.

I will first address Amendment 42 in the name of the noble Lord, Lord Holmes of Richmond, which I very much support. This would allow the Bank to

"borrow on the international capital markets",

putting that on the face of the Bill. We have a very small bank set-up here with only £4.2 billion in risk capital, which means that, for years, it will be able to do relatively little and will have to do it in such a way as to get substantial commercial returns to build up its equity base. That will allow it to grow and do rather larger things—but, since this is an important instrument for the whole goal of levelling up, you would think that impact and the need to act rapidly would be at the forefront of the Government's thinking.

Obviously, being able to go to the international capital markets to access capital in the way that the European Investment Bank and KfW in Germany do—that is very well established—would be important. Also, given that there will be a green purpose to much that the bank does, it is important to note that one of the biggest movers in providing green financing has been the decision of the European Investment Bank as it goes to the capital markets to raise climate and sustainability awareness bonds to jet-propel finance into those markets. It is utterly beyond me to understand why those powers have not been given to the UK Infrastructure Bank; perhaps the Minister will explain.

Almost more importantly, perhaps, I want to address the issues raised by the noble Baroness, Lady Noakes, and the noble Lord, Lord Teverson. I very much support his notion that we must find a way to incorporate the senior managers and certification regime. Frankly, it has been quite a weak straw in the hands of the FCA. I do not want to entertain folks here for too long by going through the instances in which the FCA should have used it but has declined to do so, or has used it very weakly; but at least it is something to make sure we have real responsibility sited where it should be in senior management.

I want to pick up a rather different issue, which was mentioned by the noble Baroness, Lady Noakes, only in passing: whistleblowing. I will talk about this in more depth in the group of amendments beginning with my Amendment 30 about the operational independence of this bank, but when we get later into the Bill we will find that a framework has been established allowing the shareholder—in other words, the Treasury and the Government—to give directions, both specific and general, to the bank. The framework elaborates on that but recognises that the board of directors of the bank may well look at these specific directions and wish to reject them. The grounds that may be given, not in a rejection but a "reservation notice" to the shareholders, include infringement of

"the requirements of propriety or regularity"

or various other things including on "value for money" or "strategic objectives" and so on; we can go into that later. In the two sections that I want to address, a reservation notice can be sent on grounds of infringement of "propriety or regularity", or of being

"of questionable feasibility or … unethical".

In that case, the shareholder—the Treasury, or the Government, in effect—can send a notice to the bank overriding its letter of reservation, forcing it to go ahead with the activity, even if it is considered by the bank to be unethical. The bank is supposed to provide a written direction, which, when you first read this, looks as though it will be published. However, very carefully written into the framework is the phrase

"published (unless the Shareholder has directed in writing to the Company that the matter must be kept confidential)."

I think we can guarantee that any direction that is unethical or infringes on propriety will come with an instruction to keep it confidential. At that point, for the public and Parliament to know, we rely on whistle-blowers.

That brings me to the point raised by the noble Baroness, Lady Noakes. First, directors are not covered by the Public Interest Disclosure Act anyway. Senior employees would be, but to have any protection to be able to blow the whistle they would have to go to a regulator to make a protected disclosure. There is no regulator, therefore there is no mechanism for protected disclosure.

I want noble Lords to understand the jeopardy in which those directors or senior executives might find themselves. I suspect they will have been asked to sign some version of a non-disclosure agreement—it has many different names; I always tussle with the Government, because it turns out they have done it under a different name, such as a confidentiality agreement, but it is the same thing. There is even some talk of extending the scope of the Official Secrets Act, which could creep into this as well. I also noticed that the directors—I am sure those who have been appointed are excellent

people—really would be taking steps of jeopardy if they blew the whistle, because most are making their careers as advisers to government or as chairs or directors of government-related entities, so they have a great deal of jeopardy at hand.

If this is unregulated, there is no mechanism for disclosure, even where actions within the view of the directors or senior employees of the bank infringe on propriety or are unethical. I would like the Minister to explain why the Government decided that that framework should be in place. I should also like her confirmation of whether there are non-disclosure agreements or their equivalent. If she cannot at this moment, by the time we get to the group beginning with Amendment 30 she will have had the opportunity to consult the Box. It will be a yes or no answer. I am certain we must get an answer either way.

Lord Sharkey (LD): My Lords, I will ask a brief question about regulation in the sense raised by the noble Baroness, Lady Noakes. Chapter 11 of the framework published by the Treasury says:

"Notwithstanding any exemptions that may apply to the Company, the Shareholder acknowledges that the provision of certain aspects of the Company's activities may be subject to … the 'FCA Rules' or guidance or principles … the 'PRA Rules' or guidance or principles and … other applicable laws or regulations."

Could the Minister help the Committee by saying what these "certain aspects" might be?

Lord Tunnicliffe (Lab): My Lords, I rise to speak to these amendments, but I will make a general point about my approach to today's debate. I find myself agreeing with a very high proportion of the amendments. We obviously want to hear from the Minister the extent to which the Government agree with them, but it seems that the issues we will face on Report will be about which of these amendments need to go into the Bill, rather than whether they are intrinsically sensible, which I think most of them are. I even venture into uneasy territory in this group by finding myself almost agreeing with the noble Baroness, Lady Noakes, again. I put it in slightly guarded terms—

Baroness Noakes (Con): I have no problem with that.

Lord Tunnicliffe (Lab): The noble Baroness should be uncomfortable as well.

UKIB is not an ordinary bank, but strong arguments have been made for subjecting it to at least some of the regulatory measures under the Financial Services and Markets Act. Of course, we will shortly see a new version of that legislation and it is difficult to know exactly what it will look like. Nevertheless, there seems merit in the suggestion made by the noble Lord, Lord Teverson, that UKIB staff should be passed as fit and proper persons. It may be that the Minister is able to offer assurances that that will be the case. If so, perhaps she could write to us and outline the process in more detail.

The noble Lord, Lord Holmes, talked about the bank's lending and borrowing powers. These are important questions at this early stage of the bank's existence and, once again, I look forward to the Minister's response.

3.45 pm

Baroness Penn (Con): My Lords, this first group of amendments all cover the financial aspects of the bank. Amendment 1 in the name of my noble friend Lady Noakes and Amendment 53 in the name of the noble Lord, Lord Teverson—I shall not quibble about the wording of the amendments; I understand their purpose—would subject the UK Infrastructure Bank to all financial services regulation and the senior managers and certification regime in turn. This goes against the exemption that Parliament approved for the bank last year.

The Government's view is that adopting this position at this stage would create a disproportionate regulatory approach that would unnecessarily add to the cost, complexity and burden of a relatively small and new organisation. Financial services regulation was not intended for public sector institutions with a policy objective. UKIB does not require regulation in the same way as commercial banks. The practice of regulatory exemptions in this way follows precedent for similar institutions operating in the public sector—for example, the European Investment Bank.

It may be helpful to note that even though UKIB has a general exemption from financial services regulation, UKIB's framework document is clear that, as far as reasonably practicable and as appropriate, UKIB will abide by the principles of the senior managers and certification regime and relevant elements of the FCA's *Principles for Businesses*. As part of its compliance framework, UKIB will adopt and implement policies to safeguard itself against fraud, theft, corruption, bribery, insider dealing, market abuse and money laundering. It is therefore important to emphasise that the general FSMA exemption UKIB has been granted already does not mean that UKIB is absolved of all compliance obligations. Rather, the exemption means that UKIB has flexibility to adopt a bespoke approach to its governance that is proportionate to its activities.

Amendments 42 and 38 in the name of my noble friend Lord Holmes of Richmond would increase UKIB's powers to borrow from international capital markets and give UKIB an unfettered ability to determine its own investment levels without Treasury authorisation respectively. With regards to Amendment 42, I assure my noble friend that UKIB already has these powers under company law.

Further, UKIB has a maximum financial capacity of £22 billion, including an overall borrowing limit of £7 billion. Within this limit, UKIB can borrow up to £1.5 billion a year from either the Debt Management Office or private markets, including international markets, depending on the best value for money and subject to standard approval processes.

Similarly, the spirit of Amendment 38 mirrors the Government's ambition for the UK Infrastructure Bank: that it should have operational independence in its day-to-day operations and investment activities. The framework document outlines that UKIB has the freedom to set the pricing of its transactions. It is already using this power.

Lord Vaux of Harrowden (CB): I am sorry to interrupt, and I thank the Minister for giving way. She has referred to the framework document a few times. Can she clarify exactly what its legal status is?

Baroness Penn (Con): For the sake of the rest of the Committee, it may be worth me answering the noble Lord's question during a subsequent group. I could make a good attempt now, but I think we will have a lot of discussions about the status of the framework document in the coming hours, so I want to make sure that I give the Committee the absolutely accurate answer. I undertake to do that during this Committee session.

As I was saying, the framework document outlines that UKIB has the freedom to set the pricing of its transactions, and it is already using this power. This is alongside the freedom UKIB has to set the terms and structure of its interventions, subject to delegated authority limits in place to protect the taxpayer for very large investment sizes or novel, contentious or repercussive transaction structures. UKIB can already determine the level of its own investments in line with its capitalisation and annual limits, which are agreed in its framework document. UKIB also already has the power to set the level of its lending rates.

Going any further than the existing freedom UKIB has, as this amendment seeks to do, would not be compatible with its status as a public body and would take it outside the framework through which the Treasury assures Parliament about the appropriate use of public money. With £22 billion of capital, it is right that the Government exercise some spending control to ensure it continues to meet value for money.

I further reassure noble Lords that the Government will review UKIB's progress and financial performance by spring 2024 to ensure that it has sufficient capital to deliver its ambitions. By that stage, the bank will have closed a broader range of investments and developed a strong pipeline of further projects. I can tell my noble friend and the noble Lord, Lord Teverson, that, as part of this review, the Government will also consider again the question of UKIB's regulatory position to ensure that it continues to be appropriate.

To give a brief answer to the earlier question about the framework document, it is essentially a memorandum of understanding and does have legal effect in so far as the bank can be accountable to it. I will see whether I can expand on that during discussion of subsequent groups.

I turn to the points raised by the noble Baroness, Lady Kramer. As she suggested, I may come back to her on the specifics when we get to the group beginning with Amendment 30, but I will reassure her now on one point. The Treasury must publish any direction that it gives to the bank. In this regard, what is set out in law in this Bill is the relevant piece of information, versus the framework document. That goes to some level of the discussion we will have when we consider what is set out in the Bill—it is the overriding thing to look at when it comes to UKIB's operation.

Baroness Kramer (LD): Perhaps the Minister could clarify one thing for me. As I read the two documents put together, the instruction must be published but not the fact that the bank has looked at it and deemed it to be improper, infringing "propriety" or

"of questionable feasibility, or … unethical".

In other words, that opinion of the bank can be completely suppressed, as I understand it, by the language of the Bill and of this document. If that is not correct, it would be most helpful if the Minister could tell me.

Baroness Penn (Con): I will definitely pick up on that further point of detail, which relates closely to the noble Baroness's question about non-disclosure agreements, to which I will seek to get an answer as we undertake consideration in Committee.

I hope that I have set out why the Government have at this stage taken the approach to the regulation of the bank that they have, but, as I say, it will be kept under review, specifically by 2024. I therefore hope that my noble friend will withdraw her amendment.

Lord Teverson (LD): I am sorry—perhaps I could intervene very briefly. I find it an interesting explanation from the Minister that they are not going to apply regulation because it is a smaller and younger bank. I suspect that would not apply to any other bank that was founded in the private sector. As the Minister said, the framework document goes through the senior managers and certification regime. But it says, regarding "governance and conduct":

"This would include, as far as is reasonably practicable and appropriate for the Company, abiding by the principles of the Senior Managers and Certification Regime".

I understand that, but either you apply it or you do not. You cannot sort of half-think about it. It is one of those things like "You're either pregnant or you're not", or whatever—sorry, that is probably an inappropriate way to put it—so I do not understand how the framework document approaches this. Maybe I have it wrong; as I said, I am used to the old approved persons regime and not up to date on this, but I do not understand it.

Baroness Penn (Con): I am not sure that I or the noble Lord would actually use the analogy that he did, but I undertake to write to him to clarify that point on the senior managers regime. Coming back to the point about it being a relatively small and young institution, I absolutely take the point that he made about commercial banks being in that position. It is not that element of UKIB alone which has influenced the decision; there are quite a few elements of the nature of UKIB. As the noble Lord, Lord Tunnicliffe, said, it is not a commercial bank in many senses.

Banks and other financial services institutions are typically regulated to ensure two objectives, including that depositors and other investors are properly protected —in particular, retail depositors and investors, which UKIB will not have—and that any systemic risks to the wider financial sector do not materialise. It is the Government's assessment that these considerations of the FiSMA regulation are not currently a concern for UKIB's specific context. Beyond it being relatively new and small, it does not take deposits or other investments; it is also guaranteed by the Treasury as its sole shareholder, so it does not present a wider systemic risk.

To confirm the understanding of the noble Baroness, Lady Kramer, although the Treasury is obliged to publish the direction that it issues, the bank is not obliged to say publicly what is in its response to any Clause 4 direction. I will still come back to her on the question of non-disclosure agreements.

Lord Sharkey (LD): Perhaps I could ask again about which

"certain aspects of the Company's activities may be subject to"

the FCA and PRA rules, as set out in the framework.

Baroness Penn (Con): I will endeavour to also get back to the noble Lord during this Committee—but, if I do not, I will include my answer in my letter on his noble friend Lord Teverson's question about what aspects of the senior managers regime we plan to apply to the bank.

Baroness Kramer (LD): I am sorry to remain persistent on this, but the Minister just said that the bank is not required to publish its letter of reservations. Is it not correct to say that what the document says is that the shareholder may effectively prohibit the bank from publishing its letter of reservations—so it is a gagging clause? That is what it says in the framework.

Baroness Penn (Con): In picking up the noble Baroness's other point, I shall ensure that my response covers that specific point.

4 pm

Baroness Noakes (Con): My Lords, before I move on to what I will be doing with my amendment, could I ask one factual question? During my noble friend's response, she said that the UK Infrastructure Bank had a borrowing limit of £7.5 billion. I understand that the source of that borrowing limit is this framework document. Could she confirm that? If that is the case, I think it is going to make the status of the framework document and its interaction with the statute a very important issue for the conduct of this Committee. The question posed to her by the noble Lord, Lord Vaux, becomes particularly important for us to have a proper understanding. Will she respond on that specific point?

Baroness Penn (Con): I think that the framework document sets out those limits and they are put in place, as it were, by the Treasury. That is my understanding of that interaction.

Baroness Noakes (Con): I thank my noble friend for that, I think what we take from that is that the framework document needs to be well-understood in its scope and effect for many aspects of the debates in this Committee.

In relation to my own amendments, I thank all noble Lords who have taken part in this debate. It has raised some important issues, in particular those related to whistleblowing by the noble Baroness, Lady Kramer. I hope that she gets answers to the questions she has raised because they are important.

I had not appreciated that Parliament approved an exemption for the UK Infrastructure Bank last week. My noble friend did not tell me that at Second Reading, but these things pass one by when dealing with financial services regulation. We were asleep on the job when that came up, but now we have this Bill so we have the opportunity to revisit that question.

I say to my noble friend the Minister that I am not entirely convinced by the argument that, because there is no issue of protecting depositors, there is no systemic risk from the UK Infrastructure Bank, and it should therefore be exempt from the panoply of oversight and supervision banks are ordinarily subject to, whether or not they are small banks. We should not dismiss lightly the areas that have been raised: whistleblowing; the senior manager and certification regime; and financial crime. There are some very important issues which would get attention at the moment, if this were not a state-owned bank, from the FCA/PRA. Without that, nobody is looking at them. I do not think that is a very safe way to set up this bank. I hear what my noble friend says about reviewing it in 2024, but there is a question of whether it is sensible to run the risks until 2024. For today, I beg leave to withdraw my amendment.

Amendment 1 withdrawn.

Clause 2: Objectives and activities

Amendment 2

Moved by ***Lord Tunnicliffe***

2: Clause 2, page 1, line 9, at end insert—

"(2A) The statement must also outline how the Bank will, when carrying out its activities, balance the objectives under subsection (3), to ensure its activities do not cause environmental harm."

Member's explanatory statement

This amendment is to facilitate a debate around the balancing of UKIB's objectives, which have the potential to come into conflict.

Lord Tunnicliffe (Lab): My Lords, before I start to speak to this group, can we clear a piece of housekeeping with the Minister? I would be grateful if she could give us an assurance that, when she writes to one of us, she writes to all of us, unless there is an overwhelming case against it. I take her nod as an affirmative and thank her.

I move Amendment 2 and will speak to my other amendments in this group, Amendments 3, 8 and 20. Amendment 2 was tabled to facilitate a debate around the potentially competitive nature of the bank's objectives. The bank has acknowledged that the climate and growth objectives are likely to come into conflict. To its credit, it has loosely committed to the "do no harm" principle. However, as we say so often during our consideration of legislation, a verbal or written commitment is not the same as a statutory safeguard.

As I referenced at Second Reading, the Government opted not to include a general climate change provision in the Subsidy Control Act. They wanted to give public authorities maximum flexibility when granting subsidies, even if they cause environmental harms. As we transition to a greener economy, one would hope that investment in and subsidy for polluting technologies will steadily decline, however there are no guarantees. As the front page of the Bill makes clear, this will become environmental law, once enacted. It therefore makes little sense to leave these matters to chance. What message does it send if our environmental law does not properly protect the environment?

[Lord Tunnicliffe]

Amendment 3 would broaden the bank's climate objective to bring in the 2030 species abundance target under the Environment Act. As the Dasgupta review made clear, nature and biodiversity are inherently linked to our economic and wider well-being. We support the Government's decision to include a species abundance target in the Environment Act and look forward to seeing the detail when it is brought forward by Defra. We worked with colleagues across your Lordships' House to strengthen that target, and we are pleased that Ministers listened. Having set the ambition, we need concerted action to realise it.

There is not only a moral case for green, nature-based investment—those types of projects tend to have a higher cost-benefit ratio than traditional forms of infrastructure. Not only are there headline economic benefits but there are jobs to be created too. Projects to improve our natural environment could have a particularly positive employment effect in some areas with the worst labour market outcomes.

On jobs, I turn to Amendment 8, which would add job creation to the growth objective. The creation of jobs is mentioned as part of UKIB's second objective in the Chancellor's letter from 18 March. That document sets out the bank's strategic steer. It is slightly curious that jobs are mentioned in that document, albeit only twice, but that has not been carried across to the Bill itself. The bank needs to be a force for good in all respects, which means creating highly paid, high-skilled jobs. The Government have long promised an employment Bill to ensure greater protection across the board, but curiously they have been unable to find parliamentary time to deliver on that commitment. The projects funded by the bank will create jobs, but it is not clear what weight, if any, will be given to the terms attached to those roles. I hope that the Minister can confirm that this is the Government's intention for jobs created through UKIB's investment—to be well-paid, secure jobs, rather than short-term or zero-hour contracts, with few rights and protections.

Finally, I have tabled Amendment 20, which seeks to expand the definition of infrastructure to include investment in the natural environment and the circular economy. This is a natural partner to several other amendments in this group, and the case for it is self-evident. What in a sense we are trying to do is to expand the two objectives to four; one of those objectives is about net zero, and the second is about levelling up. We want to include the environment and jobs; that way, the objectives will in our view become more balanced. I beg to move.

Baroness Hayman (CB): My Lords, I declare my interests as set out in the register. As we approach this group, I have added my name to Amendment 2, which has just been so clearly introduced by the noble Lord, Lord Tunnicliffe. I do no more than to reiterate the point that including the "do no harm" requirement in the framework document and strategic plans is not, as the Minister suggested at Second Reading, actually significant. There is scope for conflict between these objectives, and we need to make it crystal clear in the Bill that the bank should not make investments or engaging in other activities that contradict its own objectives or the Government's wider environmental objectives.

I would like to say my bit on the theme that will go through much of our discussions today about the absolute priority of putting essential policy components in the Bill, rather than any other accompanying document that does not have the force of legislation. We know that, when circumstances change, anything short of primary legislation can be changed or refocused. I hope that the Minister will forgive me if I remind her of our debates over the Financial Services Act. In those discussions, when asking to put things in it, we were assured that the "remit letters" to the PRA and the FCA would

"set ambitious recommendations relating to climate change".—[*Official Report*, 24/2/21; col. GC 224.]

Indeed, they did. However, there was significant emphasis adjustment to those recommendations this April in the light of the Government's focus on domestic oil and gas production in their energy security strategy. I, too, regret that we did not make it clear in the Subsidy Control Bill and it makes me more certain than ever of the virtue of ensuring that what we want is in the Bill.

I have Amendment 4 in this group, and am grateful to the noble Lord, Lord Bourne of Aberystwyth, my noble friend Lord McDonald of Salford and the noble Baroness, Lady Young of Old Scone, for adding their names to it. This amendment, like many others in the group which I generally support, considers the scope and ambition of the UKIB's objectives. I am afraid I cannot pronounce "UKIB" as one word because, if I do, it comes out sounding like "UKIP" and I then come out in hives. I hope noble Lords will forgive me for continuing to use the initials. The amendment's objective is to highlight two issues: one is nature and the natural environment—there are several other amendments in this group on that issue—and the other is adaptation. I am extremely glad to see my noble friend Lady Brown of Cambridge in her place and hope we may hear from her on the latter issue.

My amendment uses wording that the Government themselves proposed and passed into the Health and Care Act 2022. I will not compare duties for the NHS with the objectives of the bank further, but it is worth making one point on this matter. For the Health and Care Act, the Government set out an overarching three-pronged approach to their environmental considerations: reducing emissions, achieving environmental targets and adapting to climate change. These are interlocking issues; the Government recognised this and took action to ensure that they were given priority in that Bill. We should do the same here.

On adaptation, in particular, we must recognise that, however effective we are in our pursuit of a zero-carbon world, there is, as the third UK climate change risk assessment said,

"strong evidence that even under low warming scenarios the UK will be subject to a range of significant and costly impacts".

According to *Net Zero Strategy*,

"it is essential that the UK's adaptive capacity is rapidly developed to prepare for"

this. This amendment would address that issue.

The amendment also ensures that the protection and restoration of nature are included in the Bill. The interdependence of the climate change and nature crises has, in theory, long been agreed by the Government,

and was confirmed by the Minister at Second Reading. We know that the worst climate outcomes cannot be avoided without a significant expansion in nature restoration. We also know that nature restoration supports levelling up, and regional and economic growth, through improvements to mental and physical health and through the creation of valuable jobs. However, it is also clear that there is a significant funding gap, estimated at around £5.6 billion a year by the Green Finance Institute, which needs to be bridged to achieve the necessary investment.

4.15 pm

The UKIB exists to act as a cornerstone investor and the Chancellor has recognised its potential role in nature markets "over time", while recognising the challenges and opportunities that exist in mobilising investment in nature. Including an objective as set out in this amendment does not shy away from the challenges but also recognises the opportunities and solutions in the pipeline. Credible projects do exist, there is precedent to draw on from the successes of the Green Investment Bank, among others, and work has been done on policies and mechanisms, all of which should enable a surge in private investment in nature recovery projects. With this momentum in mind, the bank needs to build nature into its DNA from its inception, not only to send a clear signal to domestic and global stakeholders and give impetus to investable projects, but to guide the bank's own capacity-building and ensure it is on the front foot as these developments take place.

Those are the bases for the amendments we have put forward, but I shall listen with interest to other Members of the Committee who will be speaking on them.

Lord Bourne of Aberystwyth (Con): My Lords, it is a great pleasure to follow the noble Baroness, Lady Hayman, and to speak particularly to Amendment 4 in this group. I address the attention of the Committee to my published interests in the register.

I shall make a couple of general points to start with, because it occurred to me that the noble Lord, Lord Tunnicliffe, when speaking to the last group of amendments, was absolutely right when he said there is a great tendency on the part of the Government not to put stuff in the Bill, but rather to say, "Don't worry, the Treasury will be looking at that", "The Government will be looking at this", "There will be a review of this and a review of that". That ties in with what the noble Baroness, Lady Hayman, just said about the importance of having this firmly in the legislation. We live in febrile times and it is important that some of the key points that have been put forward around the Committee, and certainly were at Second Reading, are put in the legislation.

The second point that struck me very forcibly, made by my noble friend Lady Noakes, was the importance and status of this framework document. That really needs underlining and I encourage the Minister to write to all Members to stress what the nature of this document is. She referred to its legal status. Its legal status is certainly not as strong as that of a Bill and I would be interested to know what the lasting position of this framework document is, how it is to be enforced and so on. That is key to what we are looking at.

In addressing Amendment 4, the key point, as the noble Baroness, Lady Hayman, said, is about extending and clarifying the remit of the bank's objectives. Many at Second Reading, including the noble Baroness, Lady Young of Old Scone, and the noble Lord, Lord McDonald of Salford, who are also speaking to Amendment 4, were clear about the importance of being explicit about objectives for adapting to actual and predicted impacts of climate change. As was very clearly set out by the noble Baroness, Lady Hayman, the report of the Committee on Climate Change is key in this regard, under Section 56 of the Climate Change Act. The Government have said that they are committed to this; why, then, would they resist putting it in the Bill? If they resist putting it in the Bill, it will inevitably make not just noble Lords but the community and the public in general suspicious, and I think that would be an undesirable outcome.

It is surely integral to the work of tackling the challenge of climate change that we do this. I think we also need to give the sector and the wider world the security of making the importance of the natural world clear in the Bill, following the Dasgupta review, which, again, the Government strongly supported. They commissioned it and supported it; why, then, is it not to be put in the Bill? It is an integral and holistic part of dealing with the challenge of climate change that we also deal with the dangers to the natural environment. That would mean making positive efforts in relation to, for example, peat restoration, tackling coastal erosion, tackling flood management and so on. Why should this not also be in the Bill? I would be interested to hear what my noble friend has to say on this point.

It is important for the financial sector to know that the Government are firmly behind this. At Second Reading, I recall that the noble Baroness, Lady Boycott, who is not in her place at present, reminded us that in 2018-19—the most recent statistics—the UK invested just 0.02% of GDP in restoring nature. That is clearly not good enough for a nation that purports to be in the lead and in many ways is giving a lead internationally on this. We need to do much more. I trust that the Government can match their words with some real action and look at how we can amend this Bill in this very positive way.

Baroness Young of Old Scone (Lab): My Lords, I declare my interests as chairman, president and vice-president of a range of environmental organisations. I too will speak to Amendment 4, to which I have added my name.

We absolutely must not miss this opportunity to make sure that the bank's objectives are fully in line with the two biggest global challenges: climate change—mitigation and adaptation—and biodiversity decline. This amendment, as has been outlined, highlights the importance of the bank supporting investments that enable the UK to adapt to the implications of climate change and not just to reduce carbon. There is already enough carbon out there to have significantly influenced the climate—increased storminess; higher temperatures; impacts on human health, crops and the resilience of infrastructure; and flood risks to property, energy generation and distribution networks and transport.

[Baroness Young of Old Scone]

Some 85% of all major electricity distribution substations are on the flood plain. At high temperatures, as we already know, roads and rail melt. There are some real practical issues now which the infrastructure bank could get its teeth into.

I have read the successive reports of the Adaptation Committee to the Climate Change Committee, which I was privileged to help establish. I am delighted to see the noble Baroness, Lady Brown, in her place, and I am sure she will talk with huge authority about this. To steal her quote,

"adaptation remains the Cinderella of climate change, still sitting in rags by the stove: under-resourced, underfunded and often ignored."

It almost makes you weep. Her reports also demonstrate that the gap between the level of risk we face in the UK from climate change impacts and the level of resilience we are developing has widened rather than narrowed. The UK is not in a good place with its readiness for and resilience against the impacts of climate change, and if the world misses its net-zero targets, we will be in an even worse place. The bank has a really valuable job to do in addressing these issues. It must do so, and therefore this should be in its objectives.

As others have said, the bank also needs to embed in its objectives a role in supporting action on the Government's other key challenge of protection and restoration of natural capital—air, land, water and especially biodiversity—which has been on a steep decline for 50 years, and which the Government have committed to reverse by 2030.

I put the House on notice that I will become a complete bore. Having got my way with the Government yesterday when they announced that they would have a land use strategy, I can now stop banging on about that. My next subject to bang on about is the need to learn the childhood game, if noble Lords remember it, of trying to pat your head and rub your stomach at the same time. We need not just to learn that but to pull off the more difficult task of walking, talking and chewing gum at the same time. Pretty well every government policy and many public institutions should have three sets of objectives for the future: the key role that they play in whatever sphere of life they operate in, the climate change objective, and the natural capital and biodiversity decline objective. We have to become better at walking, talking and chewing gum at the same time.

As we see successive bits of legislation going through, I am sure your Lordships will hear me, the noble Baroness, Lady Hayman, and many others banging on about that need. Remember when you were patting your head and rubbing your stomach: it was difficult but it was doable. We have to learn how to do this—to make sure that every single policy has measures for climate change mitigation and adaptation for biodiversity recovery included in its objectives, equal to the main function that it is there to deliver. This amendment would do that job for the infrastructure bank, and it would enable the bank to work for natural capital as priority infrastructure and as a key factor in screening its lending priorities.

There are several other amendments grouped with Amendment 4—Amendments 2, 3, 5, 15 and 20—which are all variations on the theme of environmental objectives. I personally think that ours is the most all-embracing, elegant and comprehensive, but I am sure there will be a degree of haggling to bring together some combined objective before Report.

Lord McDonald of Salford (CB): My Lords, I too have put my name to Amendment 4, and I agree with the noble Baroness, Lady Young of Old Scone, that it is the most elegant in this group. At Second Reading, the Minister acknowledged that expanding the objectives of the bank to include biodiversity and the protection, enhancement and restoration of natural capital was the area that most parts of the House were most interested in promoting. More than that, the Minister said that everything that could be launched in the area of biodiversity was completely compatible with the climate change objective of the bank. But as the noble Baroness, Lady Hayman, has reminded us today, this Bill decides the DNA of the bank. So if it is not included on the face of the Bill, biodiversity and the natural environment will be essentially down-prioritised. As the noble Lord, Lord Bourne of Aberystwyth, reminded us, if it is not there, people will think that it is not important. If it is as easily incorporated as the Minister suggested at Second Reading, could we please have this explicitly on the face of the Bill?

Lord Teverson (LD): My Lords, it is always a pleasure to follow the noble Lord, Lord McDonald, and the contributions he has made to the House and to the International Relations and Defence Committee recently.

I see that two of our right reverend Prelates are present in the Chamber. I thank them for their unity and for their letter to the *Times* today, which I think was absolutely right. I congratulate them on that unity and that nationally important statement.

One of the things we debated in the Environment Bill—now Act—was whether we should have a statement of the biodiversity emergency in that Bill. At the end of the day, I withdrew my amendment on that, because the Minister pointed out at the time that the Prime Minister had written that there was a biodiversity and nature crisis in this country. Therefore, I find it very difficult to understand, from a government point of view, why we do not have both those crises reflected in this Bill's objectives. Although they are very different crises, they are absolutely connected, and it is essential to solve them both. If nothing else, this bank must be part of that solution—it must be.

I come back to something that the noble Baroness, Lady Noakes, said at Second Reading that I absolutely agreed with: one of the risks of this bank is that it just substitutes private investment for public sector investment. Relatively, one of the easiest areas for the private sector to invest in—because of all the schemes such as contracts for difference, ROCs in the past, and the incentive for renewable fuels—is clean energy. It is a relatively low-risk area, and we have seen that happen. In fact, it was much riskier when the Green Investment Bank started; now that we have come down the learning curve, it is quite an easy area in which to invest.

4.30 pm

The area that is difficult for the private sector to invest in is nature-based solutions and the natural environment. Therefore, if we really want to make a

difference through this bank, that is far more important as an objective than the climate change objective in many ways because it is already much easier to bring private investment into the climate change area. I would not want to exclude it by any means—as part of that, all sorts of technologies still require rather riskier capital, if you like. If we come back to things such as risk appetite, which has to be higher for this bank if it is to not just substitute private investment, the bank needs to invest in areas such as nature-based solutions and biodiversity.

That asset class—it is not really an asset class yet but perhaps will be in the future—at the moment relies on what we know as blended finance. It has a mixture of private, public and maybe offsetting or even charitable input to be able to be effective. This is clearly the one area where the UK Infrastructure Bank could make a real difference with regard to the government objectives on biodiversity, nature-based solutions and natural capital—all those areas that we have talked about already. That is why that is absolutely essential. If there are weaknesses or flaws in the Bill, this is the largest of them and the one that has to be changed. Just having that one objective on the environmental side in terms of the climate crisis cannot be and is not sufficient to cover those other areas.

My Amendment 5 also covers many of the other areas that have been talked about already. One other area where we are at the beginning of a path that needs to be trodden is the circular economy. It is very difficult at the moment to have large-scale implementation of that, and I would like to see the UK Infrastructure Bank play a part in that as well, and, obviously, the area of do no harm.

As we and the Minister know, it is always very tempting to treat these Bills as a Christmas tree, adding things on all the time. However, among these amendments, we have resisted that quite well in that we have the circular economy, do no harm, biodiversity and nature-based solutions. Those are the areas that really need to change in the Bill, and I hope that the Minister will be able to come back and reassure us on them.

Lord Holmes of Richmond (Con): My Lords, it is a pleasure to take part in this second group and to agree with pretty much everything that has been said so far.

I will speak to Amendment 15 in my name, which seeks simply to insert "nature- based solutions" in the definition of infrastructure in the Bill. For every £1 invested in peatland restoration there is a return of £4.60, and for every £1 invested in woodland there is a return of £2.80. Does my noble friend the Minister agree that in both examples that is a multiple greater than what the bank is seeking to get as set out in its aspirations?

Similarly, as has eloquently been said with regard to climate and nature-based renewal, there is an economic boon to be had if we have nature-based solutions in the Bill for the bank to clearly be able to invest in: some £50 billion for the UK economy by 2050 and, with regard to levelling up, over 100,000 jobs.

Can my noble friend say whether the bank is able to invest in infrastructure—in this instance, nature-based solutions—in UK overseas territories? A number of things can be done there. Just one example is mangrove replanting, which can have a significant impact on addressing the current climate emergency and more impact than some of the projects that can be done alongside in the United Kingdom. Can the bank invest in such infrastructure projects in UK overseas territories?

I gently point my noble friend to a report from your Lordships' Science and Technology Committee, on which I was lucky to serve, on nature-based solutions. It clearly sets out the advantages to be had from such investments, but also the criticality, has been said across your Lordships' House. Even if we do everything towards the reduction and eventual eradication of carbon, we must still undertake nature-based solutions. To this end, with the economic, social and environmental benefits to be had, does my noble friend agree that it makes complete sense to have nature-based solutions as part of the definition of infrastructure in the Bill?

Lord Ravensdale (CB): My Lords, I shall speak to Amendment 6 in my name and start by declaring my interests as a project director and engineer with Atkins, and as a director of Peers for the Planet.

The problem we have, in my view, is that the second objective of the UK investment bank—to support local and regional economic growth—does not provide a clear policy intent for what the bank is to do in relation to levelling up. Getting these objectives right from the start is crucial. As the noble Lord, Lord Tunnicliffe, said at Second Reading,

"the most important debates will focus on the Government's definition of infrastructure and the scope of the two core objectives. We must get these core components right from the off"—[*Official Report*, 24/5/22; cols. 824-5.]

As I said at Second Reading, the current wording leaves much open to interpretation. Almost any infrastructure investment anywhere in the country could be argued to support economic growth in the region or local area in which it sits. A new transport scheme in a wealthy area of Sussex, for example, would meet this criterion by supporting local and regional economic growth. There is nothing to clarify that this refers to levelling up, or to economically disadvantaged areas. I listened carefully to what the Minister had to say in response to this at Second Reading—she stated that the policy intent is clear—but I believe the Bill would benefit from setting out in more detail exactly what this goal entails, which I will come to shortly.

I briefly remind noble Lords of the issues we are facing here. The levelling-up White Paper stated:

"The UK has larger geographical differences than many other developed countries on multiple measures, including productivity, pay, educational attainment and health."

As the *Economist* put it recently:

"Britain is highly geographically unequal ... It is as if America's rust belt or the former East Germany were home to half the population."

As an example, I took a walk through central Derby on Sunday and asked my sons to count the number of empty shop units. We counted 14 over a 200-metre stretch in the city centre, from Iron Gate to Corn Market. The only retail outlets that seemed to be thriving were betting shops—I counted five. This issue is repeated right across the Midlands region. Walking around comparable stretches in London, I see one or

[Lord Ravensdale]
two empty units at most. I know the Government get this, and I am looking forward to seeing the Levelling-up and Regeneration Bill come before this House, but it emphasises that we need to make clear what is meant by levelling up in this vital legislation. Although the intent is clear from the Chancellor on his strategic steer to the bank, it needs also to be clear in the legislation. Levelling up is a long-term, generational project, so legislation supporting it must be crystal clear as to what needs to be accomplished. The strategic steer will not set policy intent over the long term; having this clear on the face of the Bill will, as the noble Baroness, Lady Hayman, powerfully argued.

My amendment is straightforward, and I also support Amendment 9 in the name of the right reverend Prelate the Bishop of St Albans and Amendment 7 in the name of the noble Baroness, Lady Bennett, to which I would have added my name had I spotted them in time; they get at the same issues as my amendment. My amendment would strengthen the current wording by referring specifically to reducing

"geographical inequality through supporting regional and local economic growth in areas of economic disadvantage".

This, I believe, clearly captures the Government's policy intent for this objective and ensures that the legislation will deliver in the long term for disadvantaged areas, will deliver for the levelling-up agenda, and will make a real difference to the lives of people in those left-behind communities. I would be grateful if the Minister, in her summing up, could expand on how she believes the current wording provides a clear policy intent.

I also strongly support Amendment 4 tabled by the noble Baroness, Lady Hayman. As an example, the UN has called for climate finance to be split equally between efforts to curb and adapt to climate change, but most goes towards mitigation. However, I cannot beat the Cinderella analogy from the noble Baroness, Lady Young of Old Scone. Therefore, it is right that adaption should be split out from the core emissions targets as a specific aim, and I support the words of other noble Lords on why biodiversity should be placed on an equal stature with climate change within the objectives of the bank.

Baroness Bennett of Manor Castle (GP): My Lords, it is a pleasure to follow the noble Lord, Lord Ravensdale, whom I thank for his expression of support for Amendment 7.

This is quite a large group of amendments addressing quite a narrow area of the Bill, but clearly this is crucially important. We are talking about the objectives of the bank. It is interesting that it has two objectives listed, one of which, looking at the amendments tabled by your Lordships, we clearly feel is too narrow, and the other of which is insufficiently clear. I will not speak at length to the many amendments here addressing and tackling adaptation, biodiversity and the nature crisis, because, as a Green, I do not need to; it has already been so clearly and explicitly said from all sides of the House that it does not need to come from me. We talk about tackling the climate emergency, but we must also tackle the nature crisis. It is a related and equal threat to the security of us all and it must be in the Bill. Also, the reference by the noble Lord, Lord Teverson, to the circular economy is interesting. I get at this in a different way, in terms of demand reduction and resource-use reduction, in the next group, so I will not go into that in depth now.

As the noble Lord, Lord Ravensdale, made clear, the second objective, to support regional and local economic growth, could mean local growth in Kensington and Chelsea or in the Sheffield constituency of Hallam, which a few years ago had the lowest rate of free school meals of any constituency in the country. The Government's rhetoric and the discussion around this Bill says that this is supposed to be targeting disadvantaged areas, but there is nothing in the Bill which says that. Both our amendments, and the amendment tabled by the right reverend Prelate the Bishop of St Albans, seek to address this. However, mine also has an extra, intentionally radical element in that it takes out "economic growth". Your Lordships' House has heard me say before that we cannot have infinite growth on a finite planet and that chasing after growth is a problem. So, even if we target this on the most disadvantaged areas, which certainly need development, is it economic growth per se that they need? Who is the advantage of that growth and wealth going to?

I quote the Nobel prize-winning economist Joseph Stiglitz, who pointed out that if our measures tell us that everything is fine when really it is not, we will become complacent. Despite the increases in GDP, and despite the 2008 crisis being well behind us, everything is not fine. Growth on its own will not solve the problem of levelling up—even growth directed to those areas. We are seeing considerable moves in parts of government towards recognising this.

I note that the Office for National Statistics has a national well-being programme that has 10 broad dimensions which have been shown to matter to people. They are the natural environment; personal well-being; our relationships; health; what we do; where we live; personal finance; the economy; education and skills; and governance. Looking around the world, the EU Council has defined the economy of well-being as putting people and their well-being at the centre of policy and decision-making. I have referred before in your Lordships' House to the New Zealand Treasury having produced well-being budgets, which operate by guidance under the living standards framework. It is about improving people's lives, which is what so many areas of our country desperately need.

4.45 pm

I also note that, last year, the Government produced a new system of outcome delivery plans, which shows that there are cross-cutting priorities. I point noble Lords who want to look into this further to the report from the All-Party Parliamentary Group on Limits to Growth, which reviewed these and showed that they still do not go far enough and are too focused on growth.

It is crucial that we talk about life outcomes. I chose not to use the word "well-being"; I am attempting to find a middle ground with which the Government might be able to agree, so I put down "life outcomes", which is not the same as "well-being". In some areas where which we might expect the most levelling-up attention, people have a life expectancy 10 years shorter

than people somewhere wealthy just down the road. We should think about that level of morbidity and ill health. I used to live in Somers Town in north London and saw on the streets how many people were visibly disabled, ill and suffering in their 30s and 40s. In saying "life outcomes", I believe we should be trying to address those sorts of things. So the bank should surely invest in forms of infrastructure that deliver people a better life outcome.

My second amendment, Amendment 16, addresses some of the points we have already discussed at some length about the framework document. It is about the activities of the bank. I have rewritten the paragraph to specify not just "electricity" but "renewable electricity", and not just the provision of "heat" but

"heat from environmentally friendly sources".

This is a way of saying that there must be no investment from this bank in fossil fuels. There may be other ways of writing this down and I would be very happy to talk to other noble Lords who have similar interests. It could be argued that other amendments to "do no harm" cover this, but we explicitly need to say in the Bill, "No fossil fuels".

I suspect the Minister will point me to the Explanatory Notes, which, in paragraph 11 on page 5, state:

"As … set out in the Framework Document, the Bank will not lend or provide other support to projects involving extraction, production, transportation and refining of crude oil, natural gas or thermal coal with very limited exemptions."

I am not going to start debating exemptions, but I will point to the last sentence of that paragraph. Noble Lords interested in the status of the framework document might like to look at this, as it says:

"This policy will be updated over time to reflect changes in government policy and regulatory standards."

That suggests the Government can decide to change this any time they like. Without being a legal expert, I read that as saying that the Government do not even have to table regulations to change their policies. That appears to be what they say the framework document is.

I should not have to do this, but I feel like I need to make the argument for why we must make sure this bank does not put a penny into fossil fuels. I note the letter written by the Committee on Climate Change to Kwasi Kwarteng on 24 February, which says that it

"would support a tighter limit on production … and a presumption against exploration."

It is talking about fossil fuels. It says that that

"would send a clear signal to investors and consumers that the UK is committed to the 1.5°C global temperature goal."

I note that the Government often like to claim to be world leading. At the COP 26 climate talks, France, Sweden and Ireland joined leaders Denmark and Costa Rica in establishing the Beyond Oil and Gas Alliance, which is pushing for a global treaty to stop fossil fuel extraction. That is what world leading looks like.

Finally, I have some figures to really drive this home. To be serious about a 1.5-degree target, global production of oil and gas must fall by 31% and 28% respectively between now and 2030. But the countries known as the "fossil-fuelled five"—Australia, the UK, Canada, Norway and the USA—are set to increase their oil production, so the global figures will increase by 33% and 27%. So we need a 31% fall and a 28% fall; instead, we are looking at a 33% rise and a 27% rise. It is crucial both that we do not put any money from this bank into fossil fuels and that we send a signal to the world that nobody should be putting money into fossil fuel exploration.

The Lord Bishop of St Albans: My Lords, I declare my interest as a vice-president of the Local Government Association and president of the Rural Coalition. I shall speak to Amendment 9, which stands in my name, but I also want to give my broad support to Amendments 6 and 7, which also deal with regional inequalities, and to echo the importance of getting biodiversity and nature into the Bill.

It is telling that London, as the most productive region of the UK, receives a larger per capita amount of public spending compared to other regions of the UK. Productivity relies as much on public investment as it does on private investment but, at the same time, it makes sense economically, from a private perspective, to invest in those areas that receive significant public backing, particularly in areas such as transport. The reality is that government transport spending by region remains heavily skewed towards London, at nearly double the UK average. Hence, it certainly holds that public expenditure is a significant contributory factor to productivity, even if other factors, such as economies of scale and private investment, also play their part.

Increasing the UK's productivity and reducing the productivity gap is the first aim listed in the Government's 12 missions to level up the UK, but this is not adequately reflected in the UK Infrastructure Bank's objectives. The second objective, which a number of noble Lords have referred to, is supporting regional and local economic growth. That is an extraordinarily broad objective that allows incredible levels of discretion over where the bank will focus its investment. Supporting infrastructure improvements in some of the wealthiest parts of London to drive local economic growth would fall under the remit of the bank's activities but that is surely not what the bank is meant to be doing. We need to concentrate investment in specific infrastructure initiatives to boost regional productivity and close the infrastructure gap.

I fear that the integrated rail plan is a good example. It has its priorities absolutely inverted. Better connecting London to Birmingham and Manchester is being given precedence over connecting some of the northern cities to one another. The scrapping of HS3 and the eastern leg of HS2 remains a mistake and, to quote the Mayor of Greater Manchester, is rightly seen as a betrayal of the north. People in deprived or less productive parts of the country are tired of their second-rate infrastructure and the lack of investment in it. The amendment places a clear responsibility on the bank to close the productivity gap between regions of the UK, better to align it with the Government's levelling-up objectives.

The need to close regional infrastructure gaps does not pertain just to metropolitan areas. It is a crippling issue for rural communities. One thing I shall come back to when we get to the amendment—later today, I hope—is how we want to rural-proof what is going though in legislation. The rural economy is 18% less productive than the national average, and while economies

[The Lord Bishop of St Albans]
of scale contribute to this, the gap is primarily driven by a failure to engage with rural economies on their own terms.

Poor rural transport infrastructure and digital connectivity are arguably the two biggest factors raised by those trying to sort out the huge gap between urban and rural in this country. The fear is that the UK Infrastructure Bank, as a private company wholly owned by the Treasury, will not be subject to the usual rural-proofing requirements to which all government departments are subject. Rural areas must be adequately considered as viable locations for investment by the UK Infrastructure Bank. By focusing on closing regional productivity gaps, this amendment would ensure that rural areas and underperforming urban areas would receive their fair share of the bank's finances—money desperately needed to level up.

As this is simply a probing amendment, I am at this stage just listening to the other interesting amendments and I do not particularly want to push this later, but I would be grateful if the Minister could address these concerns. What mechanisms will be hard-coded into the bank's commitments to prioritise investment in those areas that suffer from poor productivity and need improved infrastructure to meet that first mission statement of Her Majesty's Government on levelling up?

Baroness Brown of Cambridge (CB): My Lords, I rise briefly to give general support to the amendments in this group and specifically to support Amendment 4 in the name of my noble friend Lady Hayman and other noble Lords. I declare my interest as chair of the Adaptation Committee of the Climate Change Committee.

I agree with the noble Baroness, Lady Hayman, that it is absolutely critical to include adaptation in the bank's remit in the Bill. It is only too easy to forget about adaptation, as so much recent, important government policy has done—so much so that in the Adaptation Committee's advice to government last year on the third climate change risk assessment, we included a table of recent policy and legislation, showing just how frequently opportunities to include adaptation had been missed. It is crucial that we remind everybody to think about this and putting it in the Bill will help make that difference.

The most obvious example I have pointed to recently has been support for such things as the Green Deal as well as for net-zero homes. We are asking people to rip their homes apart to make them net zero but not at the same time supporting them to make the changes that would make them resilient to the future hotter summers that we are going to experience. It would be stupid to do those things separately—to have to refurbish your home twice. We must make sure that adaptation is flagged up in the Bill.

We also need to keep reminding people that, in dealing with climate change, net zero is not enough. Even if we are on a global pathway to net zero by 2050, the temperature will go on rising up to 2050, and we will look back from 2050—well, some of us, such as the noble Lord, Lord Ravensdale, might—and see that every decade between now and then was the hottest on record; so we must make sure that adaptation is a focus of the Bill.

I also strongly agree with the noble Lord, Lord Holmes, that the Bill must recognise nature—the natural environment, our natural capital—as essential infrastructure. The Bill specifically identifies as infrastructure the technology and facilities for removal of greenhouse gases from the atmosphere. The best and cheapest and way to do this is very often a tree. It would be completely perverse to encourage a complex engineered solution in a situation where an investment in nature could deliver.

As the noble Lord, Lord Teverson, said—I strongly agree—investments in nature-based climate solutions, especially those for adaptation, face some of the most difficult barriers and hurdles to secure, so we should absolutely ensure that this important development of the UK Infrastructure Bank enables those critical investments. If I might do a little bit of advertising, I will say that the Adaptation Committee is currently producing a report on the barriers to adaptation investment, which will be published in the autumn. I am sure the UK Infrastructure Bank will be an important part of the solution in overcoming those barriers.

5 pm

Lord Thomas of Cwmgiedd (CB): I could not possibly add to or improve on what the noble Baroness, Lady Brown of Cambridge, said in support of Clause 2(3)(a) on the environmental objectives, but I want to say something in support of the amendments from the noble Lord, Lord Ravensdale, and the noble Baroness, Lady Bennett of Manor Castle, because the two must be tied together. If economic development is to be an objective, then it must be to level up. Some evidence is beginning to emerge that it is possible to achieve climate change investment in a way that disadvantages areas of inequality further and yet further. The altering of subsection (3)(b) would make it clear what were the twin objectives—that the objectives are not enriching the citizens of Westminster, of which I am one, Chelsea or other areas of London, and that green investment must be done with the specific object in mind of improving the economic, lifestyle or whole-life benefits of those who live in disadvantaged areas. The bank must keep both objectives in mind.

Lord Teverson (LD): My Lords, I omitted to declare my interests as chair of the Cornwall and Isles of Scilly Local Nature Partnership and as a director of Aldustria Ltd, which is into battery storage.

Baroness Penn (Con): My Lords, the Committee's debate on this group has helped to ensure that we have properly considered the purpose of the bank, particularly around its levelling-up and climate change objectives. I will first address Amendments 3, 4, 5, 15 and 20, which seek, in various forms, to provide additional scope for the bank to pursue natural capital improvement, biodiversity or to deliver environmental improvement plans, by either splitting the climate change objective or adding a third environmental objective.

The bank has a broad mandate, which includes the flexibility to support a wide range of projects to help tackle climate change and support regional and local economic growth—two of the defining missions of

this Government. As noble Lords will know, the Government conducted a review, which reported in March following wide engagement with environmental stakeholders and market participants, to consider a potential broadening of the bank's objectives to include other areas such as improving the UK's natural capital. Most stakeholders observed that there is already significant scope for intervention in nature-based solutions within UKIB's existing mandate, particularly through its climate mitigation and adaptation objective, and scope to invest in flood defences, water and wastewater infrastructure.

Therefore, following this review, the Chancellor confirmed in his first non-statutory strategic steer to the bank that natural capital opportunities are in scope of its existing remit and that it should explore early opportunities to support the development of markets for ecosystem services and nature-based solutions within its existing climate and levelling-up objectives. The bank will reflect the contents of this strategic steer in its first strategic plan, which will be published later this month.

Adding a third objective for the bank could dilute its focus. Although projects to deliver nature-based solutions and enhance the UK's natural capital are within scope for the bank, these projects must link back to its core purpose, which is to deliver economic infrastructure projects. It is an infrastructure bank, and that is why the environmental review landed sensibly on nature-based solutions as a means of delivering the ends of economic infrastructure through natural technology.

The review recognised the significant potential for increased use of nature-based and hybrid infrastructure solutions, including for the water sector and greenhouse gas removals. These opportunities will be important to meet our objective to leverage at least £500 million per annum in private finance for nature's recovery by 2027 and more than £1 billion per annum by 2030.

However, other steps must be taken to ensure that a successful market is created to finance nature. The review found that the market for nature-based solutions is constrained by multiple barriers, including insufficient scale of projects, lack of proven revenue streams and a lack of data. The bank can help to overcome some of these barriers, but work is also under way by Defra to improve standards and accreditation and to improve early grant funding through the £10 million natural environment investment readiness fund launched in February 2021 and the big nature impact fund, a blended finance vehicle that will help to create a commercial portfolio of projects.

I turn now to the bank's "do no significant harm" commitment. Amendment 2 from the noble Lord, Lord Tunnicliffe, seeks to raise and firm up the environmental floor for UKIB projects, and Amendment 16 from the noble Baroness, Lady Bennett, seeks to remove fossil fuels from the scope of the bank, as she explained.

With respect to Amendment 2, while there is naturally some risk of the bank's growth objective coming into conflict with its climate change objective, we believe that this has already been robustly and appropriately covered in the bank's framework document, which states:

"Where an investment is primarily to support economic growth, the Company will ensure that it does not do significant harm against its climate objective."

It will be for the bank to decide exactly how to administer this "do no significant harm" clause and how to interpret it when considering individual transactions, and it is already doing this.

On Amendment 16, I say that the "do no significant harm" clause is accompanied by a sensible exclusions list, prohibiting the bank from entering into fossil fuel investments, with a small number of exemptions—for example, for carbon capture, usage and storage, which will significantly reduce emissions over its lifetime. I hope the noble Baroness, Lady Bennett, can see why we need these exemptions and why it would not be appropriate to exclude fossil fuels entirely from the bank's scope. As a package, it is sensible to keep all these conditions together in the framework document so that they may be kept under review and ensure that the environmental baseline for the organisation is sufficiently high.

Amendments 6, 8 and 9 all seek in some way to add more specificity to the existing objectives. For reasons that I will set out, the Government believe that the current drafting of the Bill is a more appropriate way to deliver against these, although they recognise the policy aims that the amendments seek to deliver. At statutory level, the correct approach is to set out the overarching policy goal and, in this context, phrasing the bank's objective as one of supporting regional and local growth provides a clear direction for the bank without being overly prescriptive.

We would not want to use language or terms in statute that could result in unintended consequences. For instance, if we adopted the drafting of the noble Lord, Lord Ravensdale, in Amendment 6, terms such as "geographical inequality" and "areas of economic disadvantage" would require detailed and complicated definitions that could change over time or be context dependent. We would not necessarily want to preclude the bank from providing funding in disadvantaged areas of the south-east but, if we adopted the proposed amendment, the bank might be put in difficulty as the south-east as a whole might not qualify as an area of economic disadvantage.

However, all three amendments are addressed in the Chancellor's first strategic steer to the bank, which states:

"Addressing the deep spatial disparities across and within UK regions is a central ambition of this government. Economic infrastructure connects people, both physically and digitally, to opportunities and the Bank has a key role to play in providing infrastructure finance across the UK and targeting investment to support faster growth in regions with lower levels of productivity … The government's recently published Levelling Up White Paper (LUWP) outlines the need to end the geographical inequality which is such a striking feature of the UK",

as noble Lords have noted,

"and it is important that UKIB supports this ambition. Therefore, I would encourage the Bank to target its portfolio of investments towards projects across the UK that deliver against the missions set out in the LUWP".

Further, the steer is also clear that the economic growth objective should provide "opportunities for new jobs". I will happily confirm to the noble Lord, Lord Tunnicliffe, that it is the Government's ambition across the economy to have more high-skilled, better paid and securer jobs. The bank's investments to date, consistent with its strategic steer, already meet the

[Baroness Penn]
aims of these amendments. Investments in the Midlands, Northern Ireland and Wales are already helping to boost productivity across the UK and support the creation of good new jobs.

Finally, I turn to Amendments 7 and 10, in the name of the noble Baroness, Lady Bennett, which focus on improving the life outcomes of people in disadvantaged areas, reducing the use of natural resources and emissions and securing the interests of future generations. I would argue that these are consistent with the existing objectives for the bank. In the long run, productivity gains and economic growth are the fundamental source of improvements in prosperity. Productivity is closely linked to incomes and living standards and supports employment. Improvements in productivity also free up money to invest in jobs and support the Government's ability to spend on public services. The climate change objective will help to secure the interests of future generations by reducing emissions and, as discussed, investing in nature-based solutions.

The Government recognise that protecting and enhancing the natural environment and the biodiversity that underpins it is crucial to supporting sustainable, resilient economies, livelihoods and well-being. We are therefore determined to support the development of private markets that drive investment in projects that restore or enhance our natural environment.

I thought it might be worth touching again on the question from the noble Lord, Lord Vaux, about the framework document, in order to aid our discussion. The framework document is a non-legally binding agreement between the Treasury and UKIB that sets out details of how the bank works that it would not be appropriate to have in statute. Notwithstanding that, it does create some legal force, as UKIB is expected to abide by it and can be judged against it in normal public law ways. It is a public document and there are reputational reasons for UKIB to follow it, and the Treasury can enforce it both as a shareholder in the bank and through the issuing of a direction. Of course, there will be parliamentary scrutiny, given that it is a published document. It can be changed and updated by agreement of both parties, the Treasury and the bank. UKIB's articles of association are binding in company law and have been filed with Companies House.

Lord Vaux of Harrowden (CB): The Minister mentioned that it will be subject to parliamentary scrutiny. What will be the mechanism for that?

Baroness Penn (Con): There are many mechanisms of parliamentary scrutiny that we are subject to every day. There are committee hearings, Questions in the House and many other different routes of parliamentary scrutiny.

To pick up on one final question, from my noble friend Lord Holmes of Richmond, about the bank's ability to invest in overseas territories, the intention is for UKIB to invest in UK projects; it is not expected that it would invest in UK overseas territories.

I therefore hope, given those explanations, that the noble Lord, Lord Tunnicliffe, will withdraw his amendment and that other noble Lords will not move theirs when they are reached.

Lord Tunnicliffe (Lab): My Lords, there is a sense of nostalgia. Right at the end, we had the favourite statement you get from Governments in this situation: that it is not appropriate—in other words, "We don't want to do it, but we haven't got an explanation why we don't want to do it."

This has been a valuable debate which, I hope, goes to the core of what this Bill is about. There was a high level of consensus, and I am hopeful it may grow by the time we get to Report and that an amendment will be generated, somehow magically—perhaps the Minister might consider creating it—that pulls in many of the various streams of this debate, very few of which conflicted. Most of them fitted together in different ways—in some ways, to make something too big to be useful, but certainly somewhere in there is something of the right size to be useful.

It was very interesting that the Minister said that this was a package which will be in the framework document. The fundamental difference coming out of this debate is that the Minister feels it should be a package in a non-binding document, while most of the rest of us think that most of these things should be in the Bill. I hope she will be thinking about how she might face such an amendment. With that, I beg leave to withdraw my amendment.

Amendment 2 withdrawn.

5.15 pm

Amendments 3 to 9 not moved.

Amendment 10

Moved by ***Baroness Bennett of Manor Castle***

10: Clause 2, page 1, line 14, at end insert—

"(c) to reduce to sustainable levels the United Kingdom's use of natural resources and emissions of non-greenhouse pollutants, and

(d) to secure the interests of future generations."

Member's explanatory statement

This amendment inserts additional objectives of the Bank to protect future generations, reduce pollution and reduce natural resource use.

Baroness Bennett of Manor Castle (GP): My Lords, in moving Amendment 10 I am rather aware from the Minister's response to the previous group that this may have been grouped differently in her list compared to mine. I am just going to proceed anyway and if she says "I refer you to my previous answer" at the end, I will understand.

Amendment 10 refers to reducing "to sustainable levels" the UK's

"use of natural resources and emissions of non-greenhouse pollutants"

and to securing "the interests of future generations." To address the second part first, I am sure many noble Lords will recognise the language there, which is very much inspired by the Private Member's Bill of the noble Lord, Lord Bird, about protecting the well-being of future generations—and indeed by the progress made in Wales, with its future generations Act. It is perhaps another way of getting towards first do no harm, as we discussed in the previous group of amendments. But more than that, it is making a larger

claim: we know that the natural world in the UK is in a parlous state with air pollution, water pollution, et cetera. It is saying that if we are looking after the well-being of future generations, the bank should be investing to improve the state of things, not just to make sure that they do not get any worse.

The first part of this amendment addresses something that your Lordships' House and the Government really need to get more focused on, which is planetary limits. In the previous group, we started to talk about how we need to add attention to biodiversity, the state of nature and nature-based solutions, tying together those planetary limits which the world is crossing over. Actually, academics are telling us that we have now broken five of the nine planetary boundaries. Three of those are climate, biodiversity and land system change, which we have already covered to some degree, but we have also come to the other two broken planetary limits. These are biogeochemical flows and what is generally known as pollution from novel entities—in general terminology, we might talk there about chemicals. About 350,000 of these are used in the world, which includes pesticides, antibiotics, plastics, industrial chemicals in mining and pharmaceuticals.

The reason for this amendment adding an objective to the bank, so that it starts to address these issues and reduces the harm done by these chemicals is that we—globally and in the UK—are very much exceeding our share of the limits of these things. This amendment is thus supposed to address both biogeochemical flows and the novel chemicals.

Coming briefly to the biogeochemical flows, the rates of nitrate and phosphate use in the UK are both well above the global average and, according to a global footprint report, we must

"Reduce nitrogen and phosphorus use by at least 80%"

—yes, I did say 80. If we are to have a bank that is investing in the kind of economy we have to live within in future, given the planetary limits, it needs to be thinking about not just climate and nature but the damage being done. Here we get to our farming systems, which is why my previous amendment referred to infrastructure that deals with food production. This is overwhelmingly related to that when we come to phosphorus and nitrogen—although sewage plants have their place. We have to look at this as a whole and see that the bank is essentially investing, for shorthand, in a sustainable economy.

The noble Lord, Lord Teverson, had in the previous group an amendment on the circular economy. That is a necessary and essential step forward but it is not a sufficient step, because we have to make sure not only that we are not treating the planet as a dumping ground—mining materials out of the earth and just dumping them—but that we stop mining those materials, or at least vastly reduce the amount we are mining. That is what my first amendment seeks to achieve. If anyone wants to know where my research, particularly around novel entities, comes from, it is from the Stockholm Resilience Centre, published earlier this year in the journal *Environmental Science & Technology*.

I will address one other point, which very much goes back—as I think we will do several times in this group—to our debates on the Environment Act: reducing resource use. I refer noble Lords to a report that the WWF put out when we were debating the then Environment Bill on the UK's overseas land-use footprint. That showed that

"between 2016 and 2018, an average annual area of 21.3 million hectares … was required to supply the UK's demand for the seven commodities".

When thinking about what the bank is investing in, we cannot be putting further pressure on other parts of the world through that. This is an attempt to bring in a systems-thinking approach.

I come now to the other amendments in my name in this group, which noble Lords may be pleased to hear are both simpler and shorter. The first is Amendment 18. When we look at the way this Bill is written, it is quite surprising that on infrastructure it says

"roads or other forms of transport".

This seems a rather odd way round for a Bill that is supposed to be addressing the climate emergency. My amendment seeks to take out the word "roads". I do not believe that the UK Infrastructure Bank should be investing in any new roads. We know that new roads generate more traffic. For the foreseeable future, on the crucial point of keeping the rise in world temperature below 1.5 degrees, roads and traffic are going to generate significant amounts of greenhouse gases, not to mention all the other impacts such as air and noise pollution. If this investment is going into disadvantaged areas, the last thing they need is more air and noise pollution. Electric vehicles also produce air pollution, with a large amount of the pollution they produce being particulate matter pollution from tyres and brakes. Building new roads in disadvantaged areas makes no environmental, social, economic or well-being sense. I have simply sought to take out the word "roads" and insert "mass" transport. That is obviously what the bank should be investing in, for both environmental and social reasons.

My final point is on my Amendment 25, on something that a number of noble Lords raised at Second Reading. The activities of the bank cover a large number of utilities, obviously including electricity and water, et cetera. The Bill talks about "services" but it is not clear whether "services" includes demand reduction and efficiency. The cleanest, greenest energy we can possibly have is the energy we do not need to use. The UK Infrastructure Bank surely has to be investing in reducing the demand for electricity, heating and water use—in these islands water stress is becoming an increasing issue with the reality of climate change and the adaptation issues we were discussing earlier. The Minister may say that the Bill already covers these demand reduction issues, but I feel that it should say explicitly that the bank should be investing in demand reduction of that which it is investing in the generation of. I beg to move.

Lord Holmes of Richmond (Con): I am pleased to follow the noble Baroness, Lady Bennett, and speak to the amendments in my name in this group. My amendments, grouped under two headings, "environmental restoration" and "human enablement and empowerment", start with Amendment 13. I think we should have in the Bill that the bank should be prohibited from investing in any projects that are not inclusive by design. What

[Lord Holmes of Richmond]
does "inclusive by design" mean? It is simply this: that all users are enabled in whatever that system, infrastructure or structure itself actually is.

I can give a quick example, of where so-called shared space has been laid out across the country, with local authorities using public money to take areas—be that a local piece of public realm, a high street or whatever—which previously were independently accessible by all members of the community. When so-called shared space is put in, kerbs, crossings, road markings and barriers are taken out, and it becomes a free-for-all whereby toddlers and tankers, buses and blind people are somehow able to coexist because of this misguided concept. Public money is being used to take spaces that were previously accessible and make them effectively inaccessible. It is being used effectively to plan out of their local public realm more than one-third of the community. It is critical that in the Bill there is a clear statement of intent that anything that the bank invests in is inclusive by design.

Amendment 19 highlights the critical importance of energy efficiency and security. Much has already been said on energy efficiency, so I shall focus on energy security. There could hardly be a more significant time to make the point of the UK's need to have greater energy security, and for that to be dramatically enhanced through understanding what it means to have a more local and more environmentally sound supply.

On Amendment 21, there could barely be a more significant piece of infrastructure than clean air. Air in so many parts of this city and other cities across the United Kingdom is actually killing our citizens. If the bank's objectives are so clearly set as economic, with a capital "E", clean air fits clearly within that. If we want our citizens, at whatever age or whatever stage they are at, to be fit, happy, healthy and able to develop and deploy all their talents, what they breathe could barely be more significant.

Amendment 22 looks at the UK cash infrastructure. I believe that, for reasons of financial inclusion and resilience, this again should be designated as infrastructure for the purposes of the bank—and perhaps even one stage above that, and designated as critical national infrastructure. For all the arguments around financial inclusion that we ran through in the Financial Services Act 2021—I intend to return to them when the financial services and markets Bill comes to your Lordships' House—but also for the times in which we live, we need to have resilience in our financial systems. Cash would currently seem to be incredibly significant in providing that resilience, if and when things happen to the digital platforms and systems at local and national level.

5:30 pm

Amendment 23 considers social infrastructure. Again, it is difficult for the Bill to espouse economic success so highly without seeing how tied to social infrastructure that economic success is—and indeed must be. There is now a fantastic body of evidence-based research and work around social infrastructure and the metrics which can be put in place. So the Bill should have social infrastructure in it to underscore both its critical importance and that it is not a "nice to have" or something additive but actually a driver of the economic success that the Bill espouses.

I turn to Amendment 24. If clean air is to be considered significant infrastructure, we must consider data and data systems as critical infrastructure—as well as the other issues talked about in previous groups on nature and the environment. So much around data will enable not just economic growth but also social, psychological, citizen, city, community, country and global growth—if we get it right. It is not an inevitability, but I believe that data is at least as important as any other factor to warrant inclusion in the Bill.

Similarly for Amendment 26, which puts skills on the same level, we can have whatever infrastructure investment for hard infrastructure, which is so tangible that it is so appealing to so many. However, whatever connectivity or infrastructure programme or project is funded, if we do not ensure that everyone is enabled to have those skills—digital, data, numeracy, literacy or resilience—and, if those skills are not seen as critical, it is really going to be a suboptimal infrastructure investment at best. In some instances, it will largely be a waste of money.

Amendment 27 reinforces the issues around social infrastructure and puts a "have regard" duty on the bank. It also asks that the bank looks to put in measures and means of measuring—the metrics—around social infrastructure for the benefits that this would bring. Again, even if one is considering this on the hard economic case, as the Bill is currently so over-rigidly founded, social infrastructure, despite its name, makes sense. Even if one only considers it on hard economics, it is obviously so much more.

Finally, Amendment 31, on green spaces, puts a duty on all infrastructure investments from the bank to have an element of green spaces as part of urban and suburban areas for the benefit of all—and, indeed, for the benefit of that investment itself. This goes to both the environmental and levelling-up points. Potentially, if we got this right and accepted this amendment, there would be £200 billion-worth of health benefits and 40,000 jobs; 3,500 communities would be enhanced, invigorated and enabled through having green space where currently none exists. For the final part of the amendment—that the bank comes back within six months and determines what percentage of any investment should go to green space—I believe that this should be somewhere "between 5% and 20%".

In short, all these amendments are seeking to push environmental, enabling and enhancement issues right into the Bill to make lives happy, healthy and humane.

Baroness Hayman (CB): My Lords, I have Amendment 17 in this group, supported by the same cross-party group of noble colleagues as Amendment 4. It is a simple amendment which

"includes 'energy efficiency' within the definition of infrastructure."

Last week, the IEA released new analysis showing that stronger efficiency measures can reduce energy bills, fuel imports and greenhouse gas emissions quickly and significantly. This was a point made by the noble Baroness, Lady Bennett, when speaking to

her amendments earlier. In comments accompanying the analysis, the IEA executive director, Dr Fatih Birol, said that

"inexplicably, government and business leaders are failing to sufficiently act on this."

Indeed, when the UK Government responded to the crisis in costs being experienced throughout the country, they committed £37 billion this year to help households with the cost of living crisis. However, when they implemented a tax on the revenues of oil and gas companies, they failed to announce any new efficiency measures which could help reduce energy demands and bills—in the long term, rather than the short term. It is, therefore, very important that we show a priority for energy efficiency in this Bill.

I will say something a little more broadly about Clause 2(5), dealing with the "technologies and facilities" included in the definition of "infrastructure". The Government have got themselves into their own problem here. We know that the letter that was sent—the strategic steer—references energy efficiency. It mentions

"the urgent need to improve the energy efficiency of our buildings in the context of high energy prices and the Government's renewed focus on energy security."

So they have given us the steer that this is a priority. However, in the Bill, they give a list which does not mention it. As the noble Baroness, Lady Bennett, pointed out, the list includes roads, gas and all sorts of things which might not be in line with the priorities. There is a real problem, which we have all discussed many times, with lists in legislation. Including a list like this implies that these are priorities—although I understand that other things are not excluded by the inclusion of some things in the list—but there is an implicit suggestion that these are the main or important priorities.

The Government really must think about that, as they must also think about the issue which we were discussing earlier about what falls within the framework document and what falls within the Bill. I was not alone in not finding the definition of parliamentary scrutiny for the framework document, which the Minister conjured up for us earlier on, very comforting: it may be scrutiny, but not as I know it in the most rigorous of ways. Of course, we can ask questions about it, but that is not quite what the noble Lord, Lord Vaux, was getting at when he asked his question.

The problem that illustrated is that, within those two objectives of the Bill, when people said that the objective about economic growth could include vanity projects in very rich areas of the country, the Government's response was, "Yes, it could, but we won't do it." When we said that the Government are not explicit about nature, biodiversity and adaptation projects, alongside the net-zero target, they said, "Ah, but don't worry, because it could include those." I really think that there is a problem in saying, "Yes, those are the words on the paper, but don't worry about, because we can sort it all out." I suspect that a lot of the rest of today, and on Report, will involve wrestling with exactly where that balance between the Bill, the steer that was given and the framework document should come.

Lord Deben (Con): I do not think we should add too many details, so that the thing becomes a Christmas tree. Although I think I agreed with every suggestion that my noble friend Lord Holmes put forward as a principle, I am not sure that all of them are of equal value in this. However, I think the comments of the noble Baroness, Lady Bennett—she will be pleased, on this occasion, to find we are entirely aligned—are absolutely right. The Climate Change Committee has sought for a very long time to get the Government to take energy efficiency and demand reduction seriously, and there seems to be some utterly inexplicable reason that they can never do this.

I am beginning to think that this is a kind of male thing: they want to build big things—"Nuclear power stations; let's do that"—instead of doing much simpler things. I am in favour of nuclear power, but the much simpler things are reducing the need to generate, reducing the need to use and understanding that this is as crucial a part of what we are doing as anything else. I hope that, because we have so eminent a female Minister here, she will push against this rather aggressive view of dealing with climate change, which is always to do big things. I think it is because the Government think they get votes for that, whereas with energy efficiency it is very difficult to get people to feel you have done something useful, but we are going to have to do it.

Take the electric motor car. If we are not careful, we will all be driving too much, as I do. What fun and how much better the electric motor car is than anything else, but I have to say that I ought to be careful about how often I use it, because there are resources involved which one ought to think about. If we do not have that attitude throughout, frankly, we will get the infrastructure arrangements wrong. Taking a wider view of infrastructure without thinking about the resources we are using and a reduction, within the infrastructure rules, in the use of those resources, seems to me to misunderstand what we should be doing.

Although I would not want to add all sorts of examples of things we ought to be doing, I want to make it very clear that the last speaker, as so often, got it absolutely right: if we have a list, something as important as this should not be left out, or the answer will be, as it always is, "Well, our priorities are laid down in the Act". The Government have done that and, really, this is only an auxiliary, an addition. I want it to be central because it actually is central. It is not a question of my inventing it—it is utterly central.

I also want it to be here because this is what the Government's advisers have said to them again and again. It really is difficult. We saw this yesterday with the so-called food strategy—it is not a strategy at all, of course. I had to ask why the Government have not even addressed the advice of the Climate Change Committee, or half the recommendations of the Dimbleby report. I think the Government have to think much more seriously about the fact that if they have advice and do not intend to do what that advice suggests, that is perfectly all right—they are the Government—but they must explain to their advisers why they do not think that energy efficiency is central to this, when that is the advice that has been consistently given.

5.45 pm

I end by saying, if I may, that I was really very impressed by the immediate response of the Minister to the question about parliamentary scrutiny. I did not

[Lord Deben]
know what she was going to say and I thought it was brilliant. Unfortunately, it is not parliamentary scrutiny. It was remarkable; I shall remember it for some time and quote it as something from the Dispatch Box that showed real class. It was really good, but what we mean by parliamentary scrutiny is that people have to come back here and explain themselves: that is what parliamentary scrutiny is and I am very concerned about that. I therefore have three points: let us add in the things we need, let us be bit reticent about overdoing it and let us make sure that that there is proper parliamentary scrutiny.

Lord Bourne of Aberystwyth (Con): My Lords, I strongly support what my noble friend Lord Deben just said and shall speak in favour of Amendment 17 on energy efficiency. In addition to the points my noble friend just made about how it is very dangerous to have a list of things but leave out something so central, which the Climate Change Committee has, quite clearly and quite rightly, been calling for in support of other strands of the Bill, it seems to me that this would not only help in fighting climate change but would help in levelling up, help create jobs and help in so many other ways. It is a mystery to me why the Government would want to leave it out.

Furthermore, it is very clear from the Explanatory Notes that the talk is only of economic infrastructure—look at paragraph 34—so the assumption is that, in stressing economic infrastructure, this is not covered. The absence of energy efficiency therefore means that people think that this is not regarded as important by the Government, despite what the Government have said in the strategic steer, which I strongly support. I hope my noble friend will come forward with some compelling reason why this has so far been omitted and will say that it will be included before Report, because it seems to me that the Government, when stating that they are so strongly in support of this could very easily put this right by putting it in the Bill before Report. I hope my noble friend will tell us that she intends to do just that.

Baroness Young of Old Scone (Lab): My Lords, I also support Amendment 17 in the name of the noble Baroness, Lady Hayman, to which I have put my name. All the arguments have been laid out as to why energy efficiency is important, but I share the amazement of the noble Lord, Lord Deben, that this message does not seem to be getting over to the Government. It is a bit of a no-brainer, really: energy efficiency is vital not only in tackling climate change but as one of the easiest ways of addressing the impact of rising energy prices and strengthening our energy security. We need to urgently accelerate energy efficiency measures in this country. The net-zero carbon strategy had a blind spot about energy efficiency and we really are pussyfooting around.

I am old enough to remember conversion to North Sea gas. It was a splendid programme—admittedly, probably slightly simpler, but not hugely simpler, than making our homes energy efficient. It was a street by street effort; the whole nation went through it at the same time and one spent hours talking about it in the pub. There was a spirit of community cohesion around the whole conversion process and there was an end date that we had to hit, otherwise we were going to blow people up. We need that sort of programme to deal with our cold and leaky homes. We have the coldest and leakiest homes in Europe.

Just to give an example, when the energy price cap rises again in October to hit the £2,800 mark, average households in homes with an EPC of D or worse—about 15.3 million households in this country—will pay nearly £1,000 of that simply because their homes are inefficient. We cannot really continue in that mode. I believe the infrastructure bank has a clear role here.

To give noble Lords the last piece of government inadequacy on this, the Environment and Climate Change Committee of your Lordships' House took evidence last week from the Minister for Energy, Clean Growth and Climate Change. To be honest, I went home and wept, because there was huge reliance on "We'll put lots of information into the public domain; you can go to the BEIS website and get lots of help on retrofit, energy efficiency and conversion to cleaner forms of energy". There was a statement of completely pious hope that households would miraculously see the light and take action. That simply will not be enough.

The infrastructure bank needs to go for it. It needs to get us in the pubs talking about this national mission of a focused and sustained programme for energy efficiency. I share all other noble Lords' view that the Chancellor's strategic steer is insufficient. I hope the Minister will rise to the occasion, show that not all of government has a blind spot on energy efficiency and let us have it as one of the definitions of "infrastructure" for the bank.

Lord Teverson (LD): My Lords, I will briefly speak to my Amendment 11, which is also around energy efficiency but focuses particularly on the built infrastructure in this country, which is what most of us are probably talking about. I have no objection to the broader definition, but I like the specific issue of built infrastructure. The noble Lord, Lord Deben, is absolutely right that big boys' toys are always the focus; big nuclear is probably the ultimate example of that, although I am quite confident that it will never be built because of financial reasons, apart perhaps from Sizewell C in his back garden.

We have a bad track record in this area; it has not only been ignored but the green homes grant, which finished last year, was described by the Public Accounts Committee at the other end as a "slam dunk fail". A great opportunity was unfortunately missed. Built infrastructure accounts for some 25% of our emissions nationally, so this is a really straightforward way to make a difference on climate change, which is one of the main objectives of the UK Infrastructure Bank. I reinforce the messages from other Members across the House. I also very much agreed with the noble Baroness, Lady Bennett, on some of the infrastructure, such as roads.

We really need to take advantage of the most cost-effective way of achieving decarbonisation of our economy, through energy efficiency and by taking on the challenge of the built infrastructure in this country,

on which the UK Infrastructure Bank can be a major player. It is estimated that we will spend some £37 billion of public money over the coming years on the energy price crisis. That money will all go on standing still; instead, we need to invest money to make sure that those energy bills come down in future and that we decarbonise the economy through energy efficiency. This bank ought to be a major part of that target.

Lord Tunnicliffe (Lab): My Lords, there is very little in this group that I can object to in principle. We debated the definition of infrastructure at Second Reading, with concerns expressed on all sides that items such as buildings or energy efficiency are not in the Bill. As we are doing this, I took to my own conscience and realised that we have not done the loft—the problem is all the stuff in it. Anyway, by subcontracting that a bit, we got it out.

The noble Baroness, Lady Bennett, raises an interesting point about mass transport in her Amendment 18, while the noble Lord, Lord Holmes, raised a variety of issues including air quality, social infrastructure, data and skills training. I said at Second Reading that it is vital we get the bank's objectives and definitions of infrastructure correct from the start. That remains my view. The bank will not be effective if its mission statement is ambiguous. However, for that very reason, it is also important that the Bill does not simply become a long shopping list.

I hope the Minister can confirm that the current definitions include—even if not explicitly—many of the initiatives raised by noble Lords. It is inevitable that there will be a composite amendment on Report which once again seeks to embrace many of the important ideas we have discussed in this group. I also hope she will take a number of these suggestions away. It may be suitable for the Government to amend the Bill, but there may be other ways forward.

Baroness Penn (Con): My Lords, as discussed, the amendments in this group seek to clarify or extend the scope of the bank and are focused predominantly on the Bill's definition of infrastructure. I apologise to the Committee and the noble Baroness, Lady Bennett, that I did indeed get ahead of myself on the previous group.

First, I will address Amendments 10, 11, 17, 19 and 21, which seek to make explicit reference to technologies and facilities relating to energy efficiency, energy security and clean air. I reassure noble Lords that these technologies are already in scope of the definition of infrastructure in Clause 2. The definition captures all energy efficiency measures, including those related to buildings and homes, and energy security measures that fall in scope of "electricity" and the "provision of heat". We expect clean air to be captured under "climate change". The definition, which is non-exhaustive by design to give the bank an appropriate degree of flexibility over the subsectors in which it can invest, would be too long and specific if we were to list every subsection.

It may be helpful to give a little more detail on the genesis of the definition; it is based on a definition used in the UKIM Act 2020 but changed in a couple of ways. It is wider in that it relates to the technologies and facilities connected to infrastructure, giving the bank the flexibility to provide support to assets, networks or new technology. It does not seek to include social infrastructure, which I will come to, which is not the focus of the institution. It clarifies that climate change technologies, such as nature-based solutions, are in scope. That is what we have aimed to do in writing the definition. The noble Baroness, Lady Hayman, said that the implication is that what has been listed are priorities; we have sought to provide clarity where it is needed, not necessarily to assign priority.

I turn to Amendments 18 and 25 in the name of the noble Baroness, Lady Bennett. Amendment 18 seeks to exclude infrastructure investment in private cars. I ask her to wait until the strategic plan is published later this month for further information on the bank's focus in this regard. I have been assured that noble Lords will see the strategic plan ahead of Report, which is a useful development. As I have said, the definition of infrastructure is based on the precedent of the United Kingdom Internal Market Act 2020 and the Infrastructure (Financial Assistance) Act 2012, and does not have a specific list of exclusions in it. Amendment 25 would include reduction in demand in relation to economic infrastructure in the definition of infrastructure. The bank will invest in clean infrastructure which will, if successful, move demand away from more harmful infrastructure, thereby helping to deliver on the bank's climate change objective.

6 pm

Turning now to a number of amendments in the name of my noble friend Lord Holmes, I reassure him that, when it comes to Amendment 24 on data transfers, if such a project should arise which meets the bank's objectives, it would be able to invest under the current definition of infrastructure. However, Amendment 22 on cash infrastructure, Amendments 23, 27 and 31 on social infrastructure and green spaces, and Amendment 26 on skills, go beyond the remit of the bank as the Government have designed it. The bank has been set up to invest in economic infrastructure, as this is where there was the greatest need for a government-backed lending institution. As we have discussed before, this is where there is the greatest scope to crowd-in private finance. That is not to say that the Government are not committed to investing in these areas, but they are dealt with elsewhere and through different mechanisms. For example, as my noble friend will know, the Government recognise the importance of access to cash and are committed to legislating to protect it in the financial services and markets Bill. On skills, the Government are investing a total of £3.8 billion by 2024-25 to support high-quality technical education for 16 to 19 year-olds, boost opportunities for adults to upskill and retrain, and increase apprenticeship funding.

While social infrastructure has been specifically excluded from the bank's remit, it can be delivered by local planning authorities through the community infrastructure levy and Section 106 planning obligations, and this includes parks and green spaces. As part of our Levelling-up and Regeneration Bill, the community infrastructure levy and Section 106 will be reformed and replaced by a new non-negotiable, locally determined

[Baroness Penn]
infrastructure levy. The Government will bring forward a technical consultation on that new infrastructure levy in due course.

Finally, turning to my noble friend Lord Holmes's Amendment 13, the bank recognises the importance of infrastructure that is inclusive by design and has rigorous processes in place to ensure that it complies with its legal requirements under the public sector equality duty in the Equality Act 2010. Impacts on protected characteristics are appropriately flagged and assessed before the granting of loans.

I hope the Committee has been reassured that the existing definition of infrastructure allows for investment in many of the areas raised by these amendments today, particularly energy efficiency, which was raised by a large number of noble Lords.

Lord Deben (Con): Could my noble friend assure the Committee that she will look again at the inclusion of the diminishing of demand and energy efficiency, which the Climate Change Committee and others have specifically asked for? I think we in this Committee feel universally that that inclusion is necessary. I am sure there is a way of getting to it; I think we need this in the Bill.

Baroness Penn (Con): My Lords, I commit to the Committee that I and the Government will listen very carefully to our proceedings today and, of course, to the advice from the noble Lord's committee and other expert advisers to the Government. On the particular discussion we are having on a number of aspects of this Bill, I think we agree on the aims that we want to achieve. We may disagree on the mechanism of it, but that does not mean that the contributions of this Committee will not be taken into account before we get to Report.

I hope that, with all that in mind, the noble Lord, Lord Teverson—oh, I have skipped ahead. I hope that the noble Baroness, Lady Bennett, will withdraw her amendment and that other noble Lords will not move theirs when they are reached.

Baroness Bennett of Manor Castle (GP): I thank the Minister for her encouraging, in some respects, response to this rich debate on this important group. I am sure that noble Lords who have flooded into the Chamber for another purpose will be pleased to know that I will not run through all 14 amendments in the group individually.

In welcoming what the Minister said, the Government say that they regard energy conservation and demand reduction as an important part of the bank's remit. We all find that encouraging, but I am sensing that the broad mood of the Committee, right around these Benches, is that there is still a very strong desire to see that in the Bill.

I also pick up on the point which I guess the Minister made in reference to my amendment on roads. The Minister said—I think I am quoting directly—that "clean air is covered under climate change". I direct the Minister to the point I made: about half of the particulate matter pollution from vehicles comes from tyres and brakes. That is not a climate change issue but it is very much an air pollution issue, and it needs to be considered.

I have no doubt that we will keep coming back to Amendment 17 on energy efficiency. The noble Baroness, Lady Young of Old Scone, made the important point that this is not just an environmental issue; it is also a poverty reduction issue, and there is a dual benefit from that.

I want to pick up one issue that I think the Minister did not cover, on the points I made about resource use, pollution and novel chemicals. I understand that, as a Treasury Minister, she may not encounter novel chemicals, phosphates and nitrogen cycles on a daily basis. However, I ask her to go and talk to Defra about those issues.

I will return to the whole issue of planetary limits on Report. With expressions of interest around the Committee, I think I will definitely return to the issue of roads on Report. In the meantime, I beg leave to withdraw my amendment.

Amendment 10 withdrawn.

Amendment 11 not moved.

House resumed.

Asylum Seekers: Removal to Rwanda

Commons Urgent Question

The following Answer to an Urgent Question was given in the House of Commons on Monday 13 June.

"Our world-leading migration and economic development partnership with Rwanda is a global first and will change the way we collectively tackle illegal immigration. This is a global problem that requires international solutions.

Rwanda is a fundamentally safe and secure country with a track record of supporting asylum seekers. Individuals will be relocated to Rwanda and have their asylum claims processed by the Rwandan authorities. The partnership is an important part of our reform of the broken asylum and migration system. I welcome the High Court's decision on Friday on this, but, with legal proceedings ongoing, it would be inappropriate to comment further than to say that we comply fully with our legal and international obligations.

We aim to move forward with a policy that offers new opportunities for those relocated to Rwanda and enables us to focus our support on those most in need of our help. The British public rightly expect us to act. Indeed, inaction is not a responsible option when people are drowning and ruthless criminals are profiting from human misery. Decisive leadership is required to tackle the smuggling of people through illicit and criminal means. This evil trade must be stopped.

The principle of the plan is simple: people will no longer be able to pay evil people smugglers to go to a destination of their choice while passing through sometimes several safe countries. If someone comes from a safe country, they are picking the UK as a preferred destination.

Uncontrolled immigration reduces our capacity to help those who most need our support. It puts intolerable pressure on public services and local communities. Long-lasting change will not happen overnight; it requires a long-term plan. As I have said many times before in this House, there is no one single solution, but this Government will deliver the first comprehensive overhaul of the asylum system in decades."

6.08 pm

Lord Coaker (Lab): My Lords, we are told that the Prince of Wales has called the Rwanda policy "appalling", and this morning, the Church of England—including esteemed Members of this House—said that it is an "immoral policy" which should shame the UK. Why are they and many others wrong and the Home Secretary right? There were reports that victims of torture were scheduled to be on today's flight. Is that the case? The Government have even had to put an RAF base on standby today to facilitate a flight of fewer than seven people. What will the cost to the taxpayer be of each person? This policy is unethical, unworkable and expensive, and it flies in the face of British values. Is it not the case that we need safe and legal routes, not a shameful policy of offshoring asylum seekers to Rwanda?

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, before I start, I think this is an appropriate point to remember the victims of the Grenfell fire.

On morality, I do not think it is moral to allow people to stand by and allow people to drown, or to line the pockets of criminal gangs who seek to exploit people trying to cross in small boats. That is why we have safe and legal routes, which have in fact seen over 200,000 people arrive here since 2015. On the cost, I do not think we can put a price on human lives. I think we need to do all we can to deter these perilous journeys across the channel.

Viscount Hailsham (Con): My Lords, given that the Court of Appeal will consider the legality of the policy very expeditiously, would it not be fair and in accordance with natural justice to postpone any further flights until such time as the Court of Appeal has come to a final decision on the legality of the policy?

Baroness Williams of Trafford (Con): The courts have now determined twice and there will be a JR process in July. That will be the extent of my comments on the legal process, because it is ongoing.

Lord Paddick (LD): My Lords, the Independent Chief Inspector of Borders and Immigration says that he has seen no impact of the Rwanda policy on numbers attempting to cross the channel in small boats. One hundred crossed just yesterday. The civil servant in charge of the Home Office says that he has not seen any evidence to show that the plan to send asylum seekers to Rwanda will act as a deterrent. Israel tried the same policy of sending asylum seekers to Rwanda and it failed. When will the Government admit that their Rwanda policy is less about stopping people smugglers transporting people across the channel and has everything to do with the UK abdicating its moral responsibility to give genuine asylum seekers sanctuary in this country and its legal responsibilities under the UN refugee convention?

Baroness Williams of Trafford (Con): As I said to the noble Lord, Lord Coaker, we have brought 200,000 people here since 2015. As for the Permanent Secretary's comments, he made it clear that he considered it "regular, proper and feasible" for the Home Secretary to make a judgment to proceed with this policy

"in the light of the illegal migration challenge the country is facing."

It is the responsibility of the Permanent Secretary as principal accounting officer to ensure that the department's use of its resources is appropriate and consistent with the requirements set out in *Managing Public Money*. The reasons for writing are set out clearly in the published letter.

The Lord Bishop of Southwark: My Lords, following the Minister's opening words, I presided at a midnight mass to commemorate the victims of the Grenfell Tower fire at All Saints West Dulwich, which went on until the early hours of this morning, so I was grateful for the tribute she paid.

Bearing in mind the force of today's letter in the *Times* signed by all the serving Lords spiritual, will the Minister acknowledge, contrary to what some of her colleagues have said, that the Bishops and others have offered alternatives—in particular, safe and legal routes which are unavailable to those who wish to apply from countries such as Iran, Iraq and Eritrea? Secondly, will she inform the House how removals may go ahead if the monitoring committee, set out in the memorandum of understanding to scrutinise processing, reception, accommodation and post-asylum treatment, does not exist? Finally, on the use of language, does the Minister agree that there is no such thing in law as an "illegal asylum seeker", only an asylum seeker?

Baroness Williams of Trafford (Con): I thank the right reverend Prelate for his points. As I have outlined, our safe and legal routes have been extremely generous to those who most need our protection—those from Afghanistan, now those from Ukraine and previously those from Syria. Our routes have been very generous. Sometimes, in suggesting expansion of safe and legal routes, we are opening up the country to something that might be quite unmanageable. However, we stand by our duty and our wish to provide refuge to those who need it most. I cannot go into any detail on processing because, as I said, a legal process is ongoing, but details of the process are available online.

Lord Deben (Con): Would my noble friend be kind enough to tell the House whether the Home Secretary has yet had time to write to the most reverend Primate the Archbishop to apologise for the way she received his moral judgment? Has she been able to write to the Cardinal Archbishop to explain why she disagrees with his moral judgment? Or are we now to believe that moral judgments will be laid down by the Home Office and this Government rather than those who have traditionally being able to uphold them?

Baroness Williams of Trafford (Con): My Lords, I have given my view on morality and I expect that God will be the judge of my morality or otherwise. As to whether my right honourable friend the Home Secretary has written to the most reverend Primate or the Cardinal, I do not know; that is a matter for her.

Baroness Stowell of Beeston (Con): My Lords, clearly, this is a matter on which people have strongly held views. Does my noble friend agree that the millions of people in this country who voted for stronger control of our borders are compassionate citizens? Would she further agree that a failure by the Government to do all that they can to prevent and deter illegal channel crossings would undermine our democratic process?

Baroness Williams of Trafford (Con): My noble friend is of course absolutely right. We have to strike that balance between being compassionate to those who need our refuge and asylum in this country and stopping some of the criminality associated with it. That is what the very generous British public voted for.

Baroness Chakrabarti (Lab): My Lords, I think the Minister would agree that these are controversial matters. She rightly said in response to the noble Viscount that a substantive judicial review of the policy will be considered in July. Would it not have been open to the Home Office to hold off removals until then, or is this a confected culture war so that other Ministers—never the noble Baroness, I might add—make these remarks about lefty lawyers thwarting the will of the people, and these poor seven or so souls are collateral damage in that culture war?

Baroness Williams of Trafford (Con): The noble Baroness is right that a legal process is ongoing. Nevertheless, the Home Office has a duty to uphold the law. There have already been two court proceedings and we await the outcome of the JR next month with interest.

Lord Campbell of Pittenweem (LD): My Lords, may I have an answer to the question I asked earlier this week? Are there any circumstances in which refugees from conflict zones will be sent to Rwanda?

Baroness Williams of Trafford (Con): We have been very clear that each case will be dealt with on a case-by-case basis. No one will be sent anywhere where they might be persecuted or where their human rights might be undermined.

Lord Lansley (Con): Will my noble friend commit the Government to providing substantive evidence to the inquiry launched by the International Agreements Committee, of which I am a member, and in doing so, will the Government explain on what basis they chose not to lay this agreement before Parliament? The Ponsonby rule suggests that any such agreement of significant public importance should be laid before Parliament.

Baroness Williams of Trafford (Con): We had a debate about this. A memorandum of understanding was reached with Rwanda, as opposed to a treaty, which would of course have been laid before Parliament.

UK Infrastructure Bank Bill [HL]

Committee (Continued)

6.18 pm

Amendment 12

Moved by ***Baroness Noakes***

12: Clause 2, page 1, line 22, at end insert—

"(4A) In carrying out its activities under subsection (4), the Bank must ensure that its activities are undertaken only where there is an undersupply of private sector financing in respect of those activities."

Baroness Noakes (Con): My Lords, I rise to move Amendment 12 and hope we can pick up a little speed with it. At Second Reading, I raised the issue of the UK Infrastructure Bank's activities having the effect of crowding out private sector investment. My view is that there can be a role for state-sponsored organisations such as the UK Infrastructure Bank only if there is a market failure which needs to be addressed. The Government appear to agree with this, as the framework document for the bank includes an operating principle that the Bank should

"prioritise investments where there is an undersupply of private sector financing".

That is, however, only in the framework document; we are coming back to our theme in Committee of what should be in the framework document and what should be in the Bill. It is unsatisfactory for this issue not to be in the Bill. My Amendment 12 is modest, because it states merely that the activities of the bank as specified in Clause 2(4) must be carried out

"only where there is an undersupply of private sector financing".

I go slightly further than the wording used in the framework document, which refers to prioritising where there is an undersupply of private sector financing, but I believe that the UK Infrastructure Bank should positively avoid those activities which are adequately supplied with private sector finance.

Amendment 14 in the next group, with which I suggested my Amendment 12 be grouped, sticks faithfully to the wording of the framework document and includes the other operating principles, to which we will come. If the Minister prefers the formulation in Amendment 14 when we get to the next group, I certainly would not object, because my priority is to have the issue of crowding out firmly in the Bill. I beg to move.

Lord Vaux of Harrowden (CB): My Lords, this amendment goes to the core of what the UK Infrastructure Bank should be about, and I am in complete agreement with the noble Baroness, Lady Noakes, about the importance of the crowding out or crowding in of private finance, which was raised by many noble Lords at Second Reading.

I am stepping in to speak on this group because it impinges on the next, in which I have an amendment. The NIC says that the Bank should act as an "anchor investor" and should

"catalyse innovation, support due diligence functions and enable projects of public significance that may not otherwise take off".

Most of us would agree that if the bank simply competes with or replaces available private finance, then it is a waste of time, damaging, distorts the markets and wastes taxpayers' money. As the noble Baroness said, it must aim to solve market failures where otherwise good projects cannot be easily financed by the private sector. The Government obviously agree, but have not put this fundamental point anywhere in the Bill.

I support the principle behind the amendment proposed by the noble Baroness, Lady Noakes, but I am not sure that the wording fully captures the crowding-in concept. That may be because the framework document does not do it terribly well either. The amendment and the framework document refer to the bank undertaking its activities only where there is an undersupply of private sector financing. Crowding in happens where private financing is available but the private sector is reluctant to invest, perhaps because of a particular risk. In that situation, we would want the bank to be able to invest, precisely to facilitate the investment of the private sector—to remove the blockage preventing the private sector involvement.

As I said, in the next group, we will come to my Amendment 14, which tries to solve the same problem in a slightly different way by putting the operating principles, which expressly highlight the need for the bank to aim to crowd in private finance, on a statutory basis, but that may not be robust enough for some. The noble Lord, Lord Holmes of Richmond, has proposed Amendment 65, which is also aimed at the same problem, but with only a one-off report at the outset rather than an ongoing obligation, so I think that does not go far enough.

We have different ways to try to achieve the end of ensuring that the bank fulfils its primary purpose of crowding in private sector finance and does not fall into the trap of crowding it out. I am agnostic as to how we achieve it, as long as we get that requirement into the Bill—and that we measure it, which we will come to in a later group. Does the Minister agree that this is a fundamental element and, if so, why is it not in the Bill? If she does not like our wording, could she suggest a different way to achieve it? Would she be happy to meet us to talk it through and try to work out how best to get it in?

Baroness Kramer (LD): My Lords, I want briefly to join this conversation because, like the noble Baroness, Lady Noakes, and the noble Lord, Lord Vaux, I believe strongly that the purpose of the bank is additionality. It is not to substitute for financing that is available out there, or even to provide it at a freckle below what might otherwise be the market price—although I note that the UK investment bank has to make a commercial return anyway. I think we can help towards that by strengthening the objectives that we discussed earlier, so that it is clear that they focus on those areas which we recognise today are crucial but which are finding it very difficult to access finance. That would be a step forward. I also very much agree with the noble Baroness and the noble Lord that additionality needs, in one way or another, to be in the Bill.

I have one minor caveat, which is that I think it is tricky to craft the language, but that does not mean it is impossible. The reason I say that is that I notice that in the noble Baroness's amendment, she wants to ensure that the bank carries out its activities only if there is an undersupply. In one of the financings I was deeply involved with, which was one of the very early mobile phone financings in Eastern Europe, we tried to bring in private financing, but until we managed to lock in a commitment from the European Bank for Reconstruction and Development and some KfW money, the private sector was unwilling. Once that kitemark was there, that reassurance that entities which they felt had understanding of both the sector and the potential risk were engaged, private sector money came in. Some of it came in pari passu with the EBRD and KfW. If a person were to look backwards at that transaction, they might say, "Well, wait a minute, private finance was willing to take exactly the same risks that EBRD and KfW were, so, essentially, those two organisations were crowding out private finance", but the reality was that without their presence, the private money would not come in. So we need to be a little careful about how we frame this, but the underlying principle is crucial.

Lord Tunnicliffe (Lab): My Lords, I must admit that I do not have a view on this, because it seems to me that if this bank is to be used only when the risk is such that the private sector is not willing to take it, it suddenly involves a definition of the money that the bank will be using and the extent to which it is de facto underwritten by the state. We know that in the past, when Governments have sought to disguise money provided or underwritten by the state, most notably in Network Rail, when a body came along—I think it was Eurostat—and said, "No, I'm sorry, this is a public loan", the whole basis of that business had to change. I await clarification and hope it meets the test of being capable of being understood by a bear of little brain.

Baroness Penn (Con): My Lords, I thank my noble friend for her amendment. As she said, it addresses a very important part of the bank's purpose for being. The Government agree with her intention: the bank has been set up specifically with the purpose of investing where there is an undersupply of private sector finance, and that is why its framework document sets out an investment principle to crowd in significant private capital and an operating principle of additionality. Based on similar institutions both in the UK and internationally, we expect the bank to crowd in £18 billion of private investment, meaning it is expected to support a total of £40 billion of investment in tech infrastructure projects across the UK.

6.30 pm

Noble Lords are right that this is another area where we have sought a balance between what is included in the Bill and what is included in other key policy documents. I do not want to overstate things,

[Baroness Penn]
but I think that I heard a small amount of sympathy from the noble Baroness, Lady Kramer. One of the reasons why we have sought to do it in the policy document rather than in the Bill comes down to defining what "additionality" means in practice. There is not a clear definition in practice, and it would be difficult to include it in the Bill without setting our interpretation out in more detail. Therefore, the Government think it more appropriate to rely on the softer levers—for example, the framework document—where the definition can evolve over time.

It is important to give UKIB the ability to set out its own ways of measuring additionality through its KPIs and its strategic plan. In this case, it is more appropriate to rely on a range of means to measure something that can be more imprecise, even though we absolutely agree on its importance. In the upcoming strategic plan, which we understand will come out ahead of Report, we will see more of the bank's emphasis on additionality and the importance that it places on it, and its intention to draw on the best evidence and methods to test additionality.

Baroness Kramer (LD): I have a quick question, the answer to which would be helpful. Unfortunately, we have not seen the strategic plan, which the Minister says will appear before Report. Is she suggesting that if we look at those definitions and they do not meet the standards of additionality that we think appropriate, we will be able to change them, or are we merely taking note?

Baroness Penn (Con): I am not quite saying that. The Government think that, in this instance, the bank would be well placed to develop and set out its thinking on this, given that, while it is important, there is not necessarily a settled way to measure these things, although there are of course examples of best practice. I am happy to meet my noble friend Lady Noakes and all noble Lords who have an interest in this. I am not predicting that we will solve the problem, but I certainly have no objection to further, more detailed discussion about where we are on the issue. I hope that my noble friend can withdraw her amendment.

Lord Tunnicliffe (Lab): Perhaps I am confused, but it seems that the bank can produce a soft and appropriate definition, yet in the final analysis that will be examined by the ONS, which will not be soft about it. The ONS will say that this is essentially either a public sector loan or a private sector loan. There will be no greyness there; it will say that A or B is true.

Baroness Penn (Con): When it comes to the loans from the bank for the accounting purposes and for what is counted as public and private sector, when we discussed it previously, we said that we would expect all financing from loans from UKIB to count as public sector loans and be accounted for on the Government's balance sheet. I am not seeking to change that position in this discussion. We also had a wider conversation about depending on the nature of that investment. It could draw the whole investment on to the Government's balance sheet. If I have any of that wrong, I will write to correct it, but I think I am stating our position.

Lord Tunnicliffe (Lab): My Lords, I would not mind if the Minister wrote again and repeated herself. I might then claw towards understanding.

Baroness Penn (Con): I will very happily do so.

Baroness Noakes (Con): My Lords, we have had a short but important debate on this principle. There is nothing fundamentally dividing us on the underlying principle; the issue is how we implement it. I continue to believe that we should search for wording that we can be comfortable with. I accept criticism of the current wording, which I lifted largely from the framework document, and I accept that it is difficult to encompass the shades that you will encounter in real transactions, which often have sequencing involved in them, in determining whether there is an adequate supply or provision of private sector finance.

I am uncomfortable about leaving this simply to the strategic plan, partly because there is no role for Parliament in it. There is a role for the Treasury in relation to conversations with the UK Infrastructure Bank, but not for Parliament. There is a need to understand how best to phrase the principles without getting into the detail—but I accept that the devil will be in the detail in this Bill.

I am very grateful for the offer from my noble friend the Minister of further discussions, which I—and, I suspect, other noble Lords—will be only too keen to take up between now and Report. On that basis, I beg leave to withdraw my amendment.

Amendment 12 withdrawn.

Amendment 13 not moved.

Amendment 14

Moved by ***Lord Vaux of Harrowden***

14: Clause 2, page 1, line 22, at end insert—

"(4A) In carrying out its activities under subsection (4) the Bank must ensure that its activities are undertaken in compliance with the following Operating Principles—

(a) the Bank will work towards achieving a double-bottom line, whereby investments help to achieve the core policy objectives to tackle climate change and support regional and local economic growth, whilst generating a positive financial return to ensure the financial sustainability of the institution and to reduce the burden on the taxpayer;

(b) the Bank will operate in partnership with private and public sector institutions and other stakeholders to finance and support infrastructure investment;

(c) the Bank will prioritise investments where there is an undersupply of private sector financing and, by reducing barriers to investment, crowd-in private capital;

(d) the Bank will be able to provide long-term patient capital through its investments."

Member's explanatory statement

This amendment makes it a requirement that the Operating Principles, as proposed by the Treasury in the UK Infrastructure Bank Framework Document (except for Operational Independence and Flexibility, which are dealt with elsewhere in the Bill) must be followed when the Bank undertakes its activities.

Lord Vaux of Harrowden (CB): My Lords, I speak to Amendments 14 and 29 in my name. I thank the noble Baroness, Lady Kramer, for her support in these.

Ultimately, these amendments are aimed primarily at strengthening the operational independence of the bank. I explained at Second Reading the importance of the bank being genuinely operationally independent, so I will not repeat those arguments. The Government claim that they agree, and the framework document is clear that the bank should be operationally independent, as is the NIC. However, as drafted, the Bill does not achieve that. In fact, it actively undermines operational independence.

On Second Reading, the noble Baroness, Lady Noakes, referred to the Treasury having its fingers all over the Bill, and that must be right. We have seen the strategic priorities, which include some stuff which can be changed at will. We have the framework document, which can be changed at will and which has no legally binding basis. I am not even sure that it has to be published if it is changed, though maybe I am wrong on that. There are the articles of association, which the only shareholder can change at will. There are no safeguards over the independence of the bank.

Three things are required to ensure that operational independence is a reality. First, the mandate and the parameters within which the bank is allowed to act must be clearly defined—the barriers within which it can operate independently. Secondly, that mandate and those parameters must not be subject to political interference and change without scrutiny on a whim. Finally, the bank must then be able to operate independently without political interference within that mandate and those parameters. If any of those is too weak, you do not have operational independence.

These two amendments are aimed at the first two of those points. The direct meddling in the operations will be dealt with in a later group. Amendments 14 and 29 are aimed at ensuring that the mandate and operating parameters are clear and complete, and are on a statutory basis so cannot be changed on a whim. Amendment 14 brings into the Bill the operating principles that the Government have previously set out in the framework. These are extremely important. You would think that something called an operating principle was precisely the sort of thing that should be on the face of the Bill. These operating principles include the principles that the bank should aim to make a positive return, that it should operate in partnership with the private and public sector when financing investments, and that it should provide long-term finance. Most importantly—here we go back to the discussion that we have just had on crowding in and crowding out—the operating principles state clearly that the bank should aim to ensure that its activities crowd in private investment.

It is extremely important that these four operating principles are part of the mandate—the defined, statutory mandate—under which the bank operates. If they are not included in the Bill, the extent to which the bank is governed by them would not be clear and the Government would be able to change them at any time without scrutiny and, in some cases, without disclosure.

Amendment 14 simply lifts the Government's own operating principles from the framework document. I have to assume that the Government are happy with them and therefore should not have any great difficulty accepting their inclusion in the Bill. If that is wrong, I would be interested to hear the Minister explain why she thinks that the Government's own operating principles are inappropriate.

As the debate has gone on, I have become increasingly uneasy. Like the noble Lord, Lord Teverson, was in the first group, I have been rather woefully unambitious with this amendment. We keep hearing, "It's all right; it's in the framework document", or "It's okay; it will be in the strategic priorities". But we have also heard that the framework document is a non-binding agreement, which is an interesting concept, subject to scrutiny that is not a definition of scrutiny that many of us have ever heard.

What this really means is that the Treasury can enforce the framework agreement on the bank, but can also change it at any point that it wishes. That is quite the opposite of operating independence. I am beginning to wonder whether we need to bring that framework document into the Bill more widely, on some sort of statutory basis, subject to some form of scrutiny if it is changed. That goes beyond my amendments at the moment. As I say, I have pulled four elements out of the framework document, but I am increasingly of the view that we may need to go further.

Amendment 29 follows on and says that, if the operating principles are to be changed, they need to be subject to parliamentary scrutiny—in this case only secondary legislation, which is of limited value but is better than nothing. I beg to move.

Lord Teverson (LD): My Lords, as the noble Lord, Lord Vaux, said, I am afraid I am going to offend again in that my amendment is suboptimal. If we are stuck with the level of dependence on the Treasury that there is, I would like to see those directions from the Treasury at least being guided by or having to take notice of the infrastructure commission. This is referred to in the framework document, but also needs to be in the Bill.

Having said that, we are going to have a major debate on governance and independence issues and I suspect that my amendment would be overwhelmed by those points. It is important that there is a major connection between the National Infrastructure Commission and the UK Infrastructure Bank. There needs to be some definite joining up beyond the wish list there may be in the framework document. Exactly as has been said on this before, I like the idea of trying to put it into secondary legislation somehow, but we know that we cannot amend secondary legislation in this House and we rarely reject it. At least any changes going through Grand Committee or whatever is a higher degree of scrutiny and the Government know that.

This amendment is looking for the Minister's response on how she sees the National Infrastructure Commission practically being taken into account by the Treasury in any directions it makes. This is important, because bodies such as the NIC can go on doing brilliant work but if, at the end of the day, they have no real effect or do not have to be taken notice of, I would rather

[Lord Teverson]
abolish than keep them. It is an important body, but one that needs to be included in the Bill to make sure that its recommendations are properly taken into consideration.

6.45 pm

Lord Thomas of Cwmgiedd (CB): My Lords, I will speak to Amendment 52, which is essentially to do with accountability and enforceability. One can only make accountable and enforceable something that is clear. I think the statute is elegantly drafted: it is very short, the phrases are chosen with particular objectivity and it reads extremely well.

Moreover, the regulation power is not that extensive and that is to be commended. There is no guidance, which is better still, but an extraordinary feature of this legislative process, to which the noble Lord, Lord Vaux, referred, is the framework document. I tried to look at what the articles of association say, but all that is registered at Companies House is the present status of the bank as a private company. The statute makes provision for the articles of association to say things, and I hope there will at least be a copy of the draft available, but the statute is remarkable in that, as has appeared from the eloquent answers the Minister has given this afternoon, the framework is critical, but is not even referred to in the Bill. That may be a first. It is an extremely important piece of the legislation that is not even referred to in the legislation.

In addition, it is a memorandum of understanding, as I picked up; "memorandum of understanding" is a phrase often used when one does not quite know whether it is legally enforceable or not. On this occasion, the Minister has made it clear that it is in part legally enforceable and in part not. It is profoundly unsatisfactory that the obligations and duties are not set out in an instrument that, first, is brought up to date—as we shall discover later, bits of it are contradictory to the provisions of the Bill—secondly, that we have not seen a draft of and, thirdly, really needs revising. I hate to say this to the hard-pressed civil servants, no doubt reduced in number, who will have to revise this, but it has to be revised. I believe the noble Lord, Lord Vaux, is right: we need to put a provision in the Bill dealing with the framework, because it is integral. It is far more important than the articles of association.

First, we have to get the Bill in a better legal shape, so that all the documents that are necessary for the proper constitution of what is a public bank are properly in the public domain and subject to parliamentary control. Secondly, it is important that there is proper accountability, for both the performance of the bank and the discharge of its duties, and the statute is so elegant in setting out what those duties are.

As the framework document recognises, there is a tension between the various duties the bank has to carry out and the enforcement options, which need to be made very clear. First, the Treasury has a critical role, as the Minister acknowledged at Second Reading. Secondly, there is the question of Parliament. At the moment, there is no proper parliamentary accountability if the base documents that control the bank are not subject to some form of legislative incorporation and scrutiny by this House. Thirdly, there is the position of the courts. From what the Minister said on the previous group, it is clear that, if the bank is not discharging its duties and the Treasury does not tell the bank to do something about it, it becomes enforceable, at the instance of interested parties, in the courts.

The first fundamental area to get right is the legal structure, and it is not right. The second is to make certain we have got the enforcement structure right. We are talking about large sums of public money. More importantly, we are talking about doing something to deal with two of the great crises of the time: climate and environmental change, and trying to bring about better equality between the various parts of our nation.

Baroness Bennett of Manor Castle (GP): My Lords, I rise to speak to Amendment 68, which appears in my name. We have already had an interesting debate essentially about the operational independence of the bank. Looking around the Chamber, I think there are two noble Lords here who were also in the Schools Bill which we are taking in parallel with this Bill. I was rather struck by the similarity between the two Bills in that a great deal of debate on that Bill focused on what would happen if these powers were given to a Government and then a Government of a hue you did not like came in and exercised them. When I was thinking about that, I was thinking: what if we had a Green Government? Would I want operational independence for the UK Infrastructure Bank? If your Lordships' House manages to get the objectives right as well as the composition of the board, which we will get to later, I believe we should have operational independence for the UK Infrastructure Bank because democratic control is the issue. As the noble and learned Lord, Lord Thomas, said, this is a public bank, so any steps being taken by the Government in directing it should be subject to full parliamentary scrutiny of a broader and more detailed kind than that which the Minister referred to earlier.

That brings me to my Amendment 68. In responding to some of the earlier debate, the Minister in a way made a point for me because, as the first amendment in this group states, this bank has a double bottom line. Its responsibilities include social justice and the climate emergency. Indeed, under a Green Government I might like to rename it the "Just Transition Bank" because that is essentially what it is setting out to try to do.

The Treasury is the ministry in control of this bank. What does it know about climate, nature, poverty, inequality or regional disparities? The very nature of the Treasury is that it is focused on money and what is called the economy—that mysterious thing outside human existence. What does it know about farming or health, despite the fact that it has a dictatorship over the actions of all the departments that cover them?

My original plan, which I alluded to at Second Reading, was to take the bank out of the Treasury's hands entirely and put it in the hands of the departments that know about the things that it is supposed to be trying to do. However, the Public Bill Office—and I thank it for its patience and assistance on this—told me that that was, technically, practically impossible. The phrase "A Green Government wouldn't start here"

crossed my lips, but the Public Bill Office came up with Amendment 68, which would ensure that the Treasury fully consults the Secretary of State for Environment, Food and Rural Affairs, the Secretary of State for Energy and Climate Change—I admit to something of a Freudian slip and apologise to your Lordship for the error in this amendment, because proposed new paragraph (b) should, of course, refer to the Secretary of State for BEIS, although whether we should have a department entirely dedicated to tackling the climate emergency is a question to raise on another day—and the Secretary of State for Levelling Up, Housing and Communities.

Lord Teverson (LD): I support the amendment tabled by the noble Baroness for that very reason. We should have a Department for Energy and Climate Change.

Baroness Bennett of Manor Castle: I thank the noble Lord for his support for my somewhat unintended amendment.

We come back to: what is this bank for and what is the economy for? The bank is supposed to serve the people of this land. The departments that focus on the people and the climate emergency this bank is serving should surely have an explicit statutory role in oversight. I have not been in your Lordships' House that long, and I cannot count the number of times I have seen a Minister stand at the Dispatch Box and say in response to a question, "Well, I'd love to do that, but the Treasury —" and roll their eyes. That is the way the country is being run, and it needs to change. This could be a small way to step in that direction.

Baroness Noakes (Con): My Lords, I, too, support a separate Department of Energy and Climate Change, but for a slightly different reason because I think we would then allow BEIS to focus on what it should be doing, which is supporting British industry, productivity and growth in the economy without being distracted by a lot of other stuff.

I want to pick up the point about the extent to which the framework document should be reflected in the Bill. It is quite normal for public sector bodies to have framework documents—they are often called a memorandum of understanding—by their side. That has not been invented just for this organisation. They usually contain a lot of really quite mundane stuff such as following the Green Book and *Managing Public Money* and a lot of detail about interactions between the sponsoring department and the body. This framework document in many ways goes beyond what you would normally expect to find in such a document, which is why I and others are querying where the balance should be, but I do not think we should look towards importing the whole of the framework document into the Bill or having some kind of approval process because much of it will deal with rather mundane, day-to-day stuff. The problem here is that this framework document has got rather grand and includes things that ought to be within Parliament's purview. I am sure we will be taking this area forward, and I hope we will have a bit of balance and perspective about ensuring that we do not have statutory overreach.

Baroness Kramer (LD): My Lords, in his Amendment 14 and the related amendments, which I was pleased to sign, the noble Lord, Lord Vaux, has put operating principles into the Bill, but not operating independence. I understand why, because operating independence is so fundamental to the bank and its integrity, character, nature and how it functions that it falls into a different category from other operating principles, which might change from time to time. If I were told that the operational independence of the bank was a moveable feast in the way that other principles might be, I would be fundamentally shocked. For me, it would undermine the existence and integrity of the bank. I support the amendment that the noble Lord, Lord Vaux, has put in this group because it gives more significance to the operating principles that matter, but I would like in a later group to deal separately with operating independence, which is far more fundamental.

I am not going to spend very long talking about this. Like others, I am persuaded that we need to take some major sections of the framework document and put them in the Bill. I agree with the noble Baroness, Lady Noakes. This is the kind of abuse that we have seen happening with statutory instruments, which used to be really narrow and dealt with regulation and have now begun to encroach widely on policy. In the same way, we have a framework document which ought to be a memorandum of understanding. It is almost a working day-to-day document that exists between two parties so that they do not constantly have to get on the phone to each other to work out what the next step is. However, core characteristics of the bank have been moved into that framework document. I am afraid that I am a cynic and I assume that this is in large part so that it can be changed at will. Nobody has read this out, so I shall so that it is in *Hansard*. This framework document

"shall be reviewed by the Shareholder and the Company at least every three years and reviewed within six months of the formation of a new government."

So there is a presumption of change.

"No variation of this Document shall be effective unless it is in writing and agreed by the parties."

There is no mention of Parliament at all. There is not even a scrutiny mechanism. The document does not even have to be published. We are in the most extraordinary situation of the governance document, which the Minister refers to again and again as the principle underpinning of the key elements of the UK Infrastructure Bank, essentially being outside the purview of Parliament and apparently deliberately so. This is a fundamental problem we have going to have to address.

7 pm

I want very quickly to pick up my colleague's comments on the National Infrastructure Commission, and I will come later in the review section to the *National Infrastructure Strategy*. It is nuts that we have infrastructure policy fragmented in so many different directions without any linkage between them. I am not sure if this is just an accident of history but, when you get a major Bill such as this, there is an opportunity to begin to pull those pieces together; I think we should seize that opportunity.

Lord Tunnicliffe (Lab): My Lords, I will briefly speak to my Amendment 32 before offering a brief response to the other amendments in this group. I have already raised the subject of jobs, and I am not convinced that the Government are giving this the weight that it deserves. As I mentioned previously, the strategic steer already offered to the bank makes only passing reference to the creation of jobs and no reference to what those roles should look like. There is a significant gap that needs to be closed, and the Treasury's formal statement of the bank's strategy priorities is the ideal means of doing that.

I am once again struck by the sensible nature of many of the suggestions made by other amendments in this group. The noble Lord, Lord Vaux, for example, has made a strong case for strengthening the status of the operating principles and for ensuring that any updates to those principles are subject to the affirmative procedure. The noble and learned Lord, Lord Thomas, put the whole thing succinctly by saying that the framework document needs to go into the Bill. I accept that it may not go in wholly, but its essence needs to go in. I commend to the Minister previously present, and to the Minister present now, that we must convey that to government. Let us not have an ugly scrap on Report but try to reach a consensus on this. If we do not get a consensus, those in the Chamber now will make a consensus of it and force it through.

The questions posed by the noble Baroness, Lady Bennett, are also interesting. The investments made by the bank will cut across different departments, and it therefore makes sense for there to be some role for those other bodies. I am not entirely convinced that we need a formal role for these other departments, but this could make governance matters more complicated than they need to be. However, I hope that one of the Ministers present—I cannot keep up—can clearly outline how the cross-cutting nature of the bank's work will be recognised by the Treasury.

Lord Teverson (LD): My Lords, I would gently challenge the noble Lord, Lord Tunnicliffe, on jobs. I have long experience in the far south-west—a deprived area that needs levelling up—of European funding, which always had jobs as its major output. The challenge is not normally jobs because, in the sort of areas that need levelling up, the jobs created by employers are normally low-grade jobs, so that is what you get. The real challenge, particularly on a levelling-up agenda in deprived areas, is actually careers, productivity and high-paid jobs. It is very easy to fill in a jobs return on jobs that are not very skilled or high grade, whereas we need to improve and raise the whole base level. I understand exactly what he is trying to get but I think it is a fundamental problem that we look at these issues in relation to grants, funding regimes, loans or other such systems. That is just a comment from my experience in Cornwall and the far south-west.

Baroness Bennett of Manor Castle (GP): At the risk of ganging up on the noble Lord, Lord Tunnicliffe, which is not my intention, I would add a supplementary comment to his statement. When we talk about job creation, people will say they are building a new supermarket and that it will create 150 new jobs, but there is never any attempt to account for how many jobs will be destroyed by that development. It surely should be about net jobs.

Lord Tunnicliffe (Lab): I am sorry; I have tried to be consensual in my responses. My understanding from Her Majesty's Government—though I am beginning to be somewhat doubtful of this—is that, post Brexit, we were going to do things better than Europe did. I have constantly referred to well-paid, important, skilled jobs, wherever possible in my various amendments.

Baroness Kramer (LD): I will come very quickly to the rescue. Because we are so often together on finance Bills, I can absolutely assure the House that the noble Lord, Lord Tunnicliffe, uses the phrase "well-paid jobs", as well as "good jobs" and "quality jobs", very frequently, even if the short-hand today has been just "jobs".

Viscount Younger of Leckie (Con): My Lords, perhaps I may be allowed to intervene with a response. I thank all noble Lords who have contributed to this short debate. The baton has been passed to me temporarily.

The amendments in this group broadly focus on the operational aspects of the bank and so clearly my remarks will seek to address those. I start with Amendments 14 and 29 in the name of the noble Lord, Lord Vaux. The approach of the Bill has been to add in what we think is necessary. We do not believe that setting out the details of the operating principles for the bank, which are set out clearly in the framework document, is required in legislation. I am very aware that this takes us back to a key theme of some of the debates today. I was extremely grateful for the views of my noble friend Lady Noakes—if I heard her correctly—supporting the view that we do not want to get into too much detail in this respect, for a very good reason.

Amendment 32, spoken to by the noble Lord, Lord Tunnicliffe, would ensure that the strategic steer includes a reference to the creation of jobs. I am pleased to inform him that, in the strategic steer issued in March, there were two references to job creation. I of course build upon the comments made by my noble friend Lady Penn in an earlier debate, and indeed the noble Lord, Lord Tunnicliffe, has raised the matter just now. I add to what has been said already two examples I would like to give from the strategic steer in respect of job creation.

First, the bank's framework document explained this objective as supporting growth

"through better connectedness, opportunities for new jobs, and high levels of productivity."

Secondly, the bank's existing objectives are to help tackle climate change, as we know, particularly meeting the Government's net-zero emissions target by 2050, and to support regional and local economic growth through better connectedness, opportunities for new jobs and higher levels of productivity. I think that these comments play reasonably well in answering the questions raised in an earlier debate, particularly by the noble and learned Lord, Lord Thomas, and the noble Lord, Lord Ravensdale, who is not in his place, and link with the levelling-up agenda. The noble Lord,

Lord Teverson, and the noble Baroness, Lady Kramer, are absolutely right that our aspiration, and the necessity, is the creation of high-quality jobs. That is essential as part of our levelling-up agenda.

Amendment 39 in the name of the noble Lord, Lord Teverson, seeks to tie any direction given by the Treasury to the National Infrastructure Commission reports. He raised the relationship with the NIC at Second Reading and earlier today, so I hope that I can set that out and reassure him. The bank is intended to complement the work of the NIC. To that extent, there is a definite joining up, as was referred to by the noble Lord and the noble Baroness, Lady Kramer. It is a complementary rather than a duplicative process, and an assessment of the UK's long-term economic infrastructure needs. Central government will then decide on any policy response to the NIC's recommendations, and UKIB will consider the case for providing financing to support projects within the economic infrastructure sectors that are within the remit of both the NIC and the bank.

The NIC provides recommendations to the Government which the Government then act on. It would not be appropriate to remove that part of the process. Additionally, the Government do not have to implement the NIC's recommendations or reports, so we believe that it is not appropriate to put this in legislation.

Perhaps the noble Lords, Lord Teverson and Lord Vaux, are concerned about the Government directing the bank in a way that is not in line with its objective. That rather paraphrases some of the mood of the debate. That is not possible with the drafting of the Bill at the moment. The bank must comply with its objectives and the Government cannot direct the bank to act in a manner that falls outside its statutory objectives.

The noble and learned Lord, Lord Thomas, tabled the characteristically thought-provoking Amendment 52. I hope I can convince him that the clause as drafted is sufficient. Much policy thought has gone into setting up the bank and detailing its objectives—which reflect government policy—and governance provisions, including provisions to allow the Treasury and Parliament to review its performance.

In the unlikely event that the bank breached its duties and agreement could not be reached via more usual engagement, the Treasury would clearly be motivated to use its powers, including under Clause 8, to enforce those duties. If a scenario occurred where the bank was in breach and the Treasury did not enforce for some reason, Questions could be asked in the House or a judicial review could be brought against the bank or the Treasury regarding use of its powers, and, if successful, give rise to mandatory or prohibitory orders.

Finally, to help the noble and learned Lord, I see no reason for Clause 8 ever to come into use. The framework document goes into some detail in Chapter 5 on the usual process for engagement between the bank and the Government, and any issues would be resolved much before the need to injunct the bank.

I turn to Amendment 68 in the name of the noble Baroness, Lady Bennett. She again raised the importance of independence but also focused on oversight. The amendment would allow other departments that she mentioned to have oversight of the bank. I assure her that the infrastructure strategy very much represents the view of the Government collectively, and should the Treasury need to exercise any of its functions, it would not do so in isolation or in silo, to use the language we might know better.

With those explanations, I hope that the noble Lord, Lord Vaux, will see fit to withdraw his amendment.

Lord Vaux of Harrowden (CB): My Lords, I thank everyone who has taken part in this short and interesting debate. I do not think the noble Viscount will be particularly surprised that I am not entirely satisfied with his response.

I take the point from the noble Baroness, Lady Noakes. She is right: this is not about taking the whole of the document into the Bill or secondary legislation, but there is a balance. This seems to be one of those situations where the Government are creeping things that are really quite fundamental into areas where they do not get parliamentary scrutiny of any sort. That is unacceptable. As was mentioned, we have seen the same with secondary legislation, but this is a whole new element: there is not even secondary legislation scrutiny. The framework document can be changed at any time at will by the Treasury. The stuff that really matters to the bank should be subject to some form of scrutiny and recognised in the Bill. To me, things that are called "operating principles" clearly fit on that side of the balance, but some of the more day-to-day activities that the noble Baroness, Lady Noakes, referred to are fine.

The noble Lord, Lord Tunnicliffe, talked about the need to find consensus on this and finding the balance. That is really important. Perhaps the noble Viscount or the noble Baroness—I am not sure what the collective noun is for the Lords the noble Lord, Lord Tunnicliffe, mentioned—would be prepared to add this to the agenda of the meeting we have agreed to have. This is a really important area where we have to get the balance right. We cannot have a situation where the Government or the Treasury can change at will things of fundamental importance. Assuming they are prepared to meet to discuss and see whether we can find that consensus, I beg leave to withdraw the amendment.

Amendment 14 withdrawn.

Amendments 15 to 27 not moved.

7.15 pm

Amendment 28

Moved by ***Lord Sharkey***

28: Clause 2, page 2, line 5, leave out subsections (6) and (7)

Member's explanatory statement

This would remove the ability of the Treasury to amend provisions in the Act relating to the Bank's activities or the meaning of infrastructure.

Lord Sharkey (LD): My Lords, I will speak briefly to all the amendments in the group. They are in my name and variously in the names of the noble Lord, Lord Vaux, and my noble friend Lady Kramer. I am very grateful for their support.

[Lord Sharkey]

Amendment 28 would remove from Clause 2 the two Henry VIII subsections, subsections (6) and (7). These subsections allow subsections (4) and (5) to be amended without constraint and without meaningful parliamentary scrutiny.

Subsections (4) and (5) are at the heart of the Bill. The first sets out what the bank's activities are to be; the second sets a non-exhaustive list of infrastructure for the purposes of the Bill. It is entirely proper that these two elements should be in the Bill. Taken together with the bank's objectives, they set out government policy. Parliament is invited to debate and scrutinise these elements to consider modifying or otherwise amending them, which is what we are in the process of doing now. But we might be wasting our time: no matter what we say, resolve, add, subtract or amend, the Government can override all of it by using the Henry VIII powers in subsections (6) and (7).

The Government can change any the activities in any way and at any time they choose. They can change the meaning of "infrastructure" in any way and at any time they choose. They can do all this without meaningful parliamentary scrutiny. The suggested use of the affirmative procedure is emphatically not meaningful parliamentary scrutiny, and it is self-serving and disingenuous of the Government to pretend it is. Parliament almost never votes down affirmative SIs; it has done so four times in the last 50 years. It obviously cannot amend them. The plain fact is that the policy or policies embodied in the Bill can be changed by the two Henry VIII powers without constraint and without scrutiny by Parliament.

The Treasury's delegated powers memorandum offers a kind of explanation for the inclusion of these powers, as it is obliged to do. The lead justification is:

"These powers will allow for the possibility that a future government may wish to change the emphasis of the Bank's activities for policy reasons and may desire to alter the definitions to support this change",

which is an unprecedentedly generous legislative text. The final justification for the inclusion of the powers is that it is "considered appropriate"—we heard "appropriate" used earlier in the debate—

"for the powers to take this form, as their whole purpose is to enable change to be made to the relevant aspects of the primary legislation for future policy reasons".

That is exactly why these powers should not be in the Bill. Once again, they attempt to give the Executive power to make policy before they have decided what that policy is.

The memorandum makes it explicit that unspecified, unscrutinised and unscrutinisable changes to critical areas of policy can be made by the Executive. What is the point of discussing the bank's activities and infrastructure if these can be changed without constraint and without any meaningful parliamentary scrutiny?

In three reports of the 2017-19 Session, the DPRRC considered the test of "appropriateness" for the use of Henry VIII powers. As I just said, the notion of "appropriateness" is the final justification given by the Treasury for the use of these powers. The Hansard Society, which I had the privilege of chairing for some years, summarised the relevant findings of the three DPRRC reports in its April 2022 *Compendium of Legislative Standards for Delegating Powers in Primary Legislation*. In paragraph 3.11 on page 18, it notes:

"Loosely drawn powers based on the subjective judgement of Ministers, such as the 'appropriateness' test, should be circumscribed in favour of a test based on 'necessity'."

There is no necessity here and the Government have advanced none.

In his contribution to the debate on the Queen's Speech, the noble and learned Lord, Lord Judge, spoke forcefully about the need to address the balance of power between the legislature and the Executive, particularly in the use of Henry VIII powers. He concluded his speech by asking

"what is the point of us being here if, when we identify a serious constitutional problem, we never do anything about it except talk? We cannot keep doing that. I just want us to consider the possibility that the next time we have a Henry VIII clause in a Bill that has not been given careful explanation in advance, we chuck it out."—[*Official Report*, 12/5/22; col. 130.]

The next line in *Hansard* reads: "Hear, hear!" This Bill is the next time. Our Amendment 28 would chuck out the Henry VIII powers.

Briefly, Amendments 33 and 34 are both probing amendments and deal with the statement of strategic priorities drawn up by the Treasury. It may be helpful if I deal first with Amendment 34, because this directly concerns whether the Treasury statement is meant to be permissive or directive. In Clause 3(5), the Bill says:

"The Bank must secure that its articles of association provide for the Bank"

to do two things: first,

"to publish and act in accordance with strategic plans which reflect the Treasury's statement",

and, secondly,

"to update those plans whenever the Treasury revises or replaces its statement."

The force of the words "provide for" in the text was not immediately clear. Did it mean that the bank must amend its articles so as to allow the publication of strategic plans and to allow the bank to act in accordance with these plans if it so chose, or did "provide for" really mean "require"? In other words, was this provision enabling and permissive, or was it directive?

I discussed this question in a helpful meeting with the Minister yesterday, and she confirmed that "provide for" in this context was intended to mean "require". This clarification makes the Treasury's strategic statement extremely important. It imposes strategic choices on the bank. These strategic choices will determine what the bank actually does; for example, they could decide what weight is given to each of the bank's two objectives and what weight to give to the bank's four listed activities.

The Bill requires the Treasury's strategic statement to be laid before Parliament, but that is the extent of Parliament's involvement. Parliament will have no opportunity to contribute to the construction of the statement and no means of making productive comment on it. Given that the statement of strategic priorities will largely determine what the bank will actually do, this seems to be missing a trick by keeping Parliament at arm's length.

It would be easy and, I believe, helpful to hear Parliament's views on any strategic statement. Our Amendment 33 proposes a way of doing that by having the statement come before Parliament as an SI under the affirmative procedure. There may be other and better ways of involving Parliament that do not seem to trespass on the Treasury's prerogatives and do not add complexity. The amendment aims simply to gauge the Government's appetite for the closer involvement of Parliament in the strategic statement process. I beg to move Amendment 28.

Lord Vaux of Harrowden (CB): My Lords, I will be very brief because the noble Lord, Lord Sharkey, has introduced these amendments eloquently, and I am not sure there is a huge amount to add.

This goes back to what we talked about in the previous group: too much power for the Treasury to change things at will. You cannot have meaningful operational independence if the mandate within which the bank works can be changed without scrutiny and safeguard. The noble Lord, Lord Sharkey, eloquently explained the limitations around the affirmative procedure; we all know about them. Something as fundamental as the basic objectives of the bank should be changed only following proper, full scrutiny using primary legislation. That should not be controversial; it should be fairly straightforward.

Amendment 33 adds an element of scrutiny that is currently missing to the statement of strategic priorities given by the Treasury to the bank. Those priorities are very important. I can understand that it is appropriate that there is some level of flexibility to those strategic priorities, but the idea that they can just be changed at will and filed with Parliament but with no scrutiny, discussion or review just seems wrong. Introducing the affirmative procedure for those makes sense to me.

Lord Davies of Brixton (Lab): My Lords, I hope the Committee will bear with me; I have taken an interest in the Bill. My interest is narrow: what bearing the Bill has on pension funds. Members of the Committee may not be surprised.

I have raised the issue on a couple of occasions: at the useful meeting we had with the noble Lord the Minister and the noble Baroness, and at Second Reading. On neither occasion did I receive a reply. My question is: how does this organisation fit with the declared intention, expressed by the Prime Minister and the Chancellor of the Exchequer, to see pension funds investing more in infrastructure? Obviously, infrastructure is a good thing, and there is a tendency to feel that the Bill is about infrastructure so it must be a good thing—but in truth the Bill is an empty vessel. We do not know what is in it or where it is going. It is a structure whose purpose and objectives will be revealed in time.

How does this relate to pension funds and the Government's apparent intention—we are still waiting for them to make clear what they are proposing—to coerce or cajole pension funds to invest in infrastructure? As I say, I raised this at the meeting with the Ministers and at Second Reading. On neither occasion was there any response from the Minister. It just so happens that the day after Second Reading, the chief executive officer of this bank stood up at a meeting of the Pensions and Lifetime Savings Association and expressed what an important initiative this was for pension funds. All I want is a straight answer: what plans do the Government have for the relationship between this bank and their objective to see pension funds investing more in infrastructure? Personally, I am not interested in taking investment advice from the Prime Minister or the Chancellor of the Exchequer, but I think we should be told.

Baroness Kramer (LD): My Lords, at this stage—I know we are about to take a short break—I just want to summarise where we might be on these constitutional issues, now that this group of amendments has been debated. I think it will be relevant for the Minister to reply on that.

As we learn from this group of amendments, in the Bill the bank is given activities and objectives in primary legislation—but that primary legislation can be changed wholly by statutory instruments. That is the point of a Henry VIII power: primary legislation is overturned by secondary legislation. As my noble friend Lord Sharkey made clear, this can include issues as fundamental as the bank's activities and even the meaning of infrastructure. It is hard to get more fundamental than that when you are talking about a UK Infrastructure Bank. That is the first point.

7.30 pm

Secondly, there are the strategic priorities for the bank, which the Treasury sets. The Treasury

"may revise or replace the statement"

and it

"must lay a copy of the statement … before Parliament".

It does not have to offer it to Parliament to consider, change, adapt or respond to; it must simply lay it before Parliament.

We have activities and objectives that can be changed by the Treasury at will. Primary legislation is to be changed by secondary legislation. We have strategic priorities of which Parliament is invited to take note, but nothing more. We also have a framework document which carries many of the important characteristics that will shape the bank, but which I think we now all accept can be changed again at will by the Treasury after there has been a conversation between the bank and the Treasury as a shareholder, but not one that in any way engages Parliament—and it is not even clear that this change in the framework document has to be printed or published. I assume that this is quite deliberate, because those drafting the framework document will have been well aware of that potential and possibility.

At this time, it is very hard to see that this bank is in any way different from the plaything of the Treasury that the noble Baroness, Lady Noakes, described on Second Reading. When we return after the break, we will be reaching groups of amendments that refer even more directly to operational independence. We will be picking up the issue of direction, both specific and general, which the Treasury may give to the bank and which it must obey. I hope that when the Minister replies, he will at the very least deal with those early characteristics: a framework not subject in any way to

[Baroness Kramer]
parliamentary intervention, with changes perhaps not even being revealed to Parliament; primary legislation setting out activities and objectives, which can be changed by mere statutory instrument; and strategic priorities and plans which can be changed at will by the Treasury with nothing more than the publication of that change to be laid before Parliament.

Lord Tunnicliffe (Lab): My Lords, I am grateful to the noble Lord, Lord Sharkey, for tabling and introducing these three amendments on the important matter of parliamentary oversight. I am not inherently opposed to the Treasury's power to amend the bank's objectives or the definition of infrastructure. If, as things progress, it becomes obvious that tweaking these would be beneficial, there should be a relatively straightforward mechanism for doing so. However, Amendment 28 gives us the opportunity to probe exactly how the Treasury intends to use the power. Is it simply for the tweaking I have just mentioned, or could the Chancellor suddenly decide to drop the climate change objective altogether? That would be a very different matter, and making such a significant change via regulations—albeit an affirmative SI—would not be acceptable. The other amendments in this group raise related questions, and I look forward to hearing the Minister's response in due course. It is not Parliament's role to frustrate the operation of the bank. However, it should be Parliament's role to debate these important matters as they arise.

Viscount Younger of Leckie (Con): My Lords, these amendments are all connected to parliamentary scrutiny, particularly in cases where the Bill is creating delegated powers, as the noble Baroness, Lady Kramer, pointed out. I will come on to the specific amendments, but it is worth noting at the outset, bearing in mind her remarks, that the Delegated Powers and Regulatory Reform Committee has found no need to comment—in fact, there has been no comment whatever—on the four delegated powers taken in the Bill. Having said that, I will attempt to reassure her now that, along with previous pledges that a letter will be written on other matters, it may be that we can give more detailed reassurances in writing on these complex but important interrelationship issues concerning the bank and the framework document.

I believe that the intended purpose of Amendment 28 in the name of the noble Lord, Lord Sharkey, is to protect the operational independence of the bank and prevent the Treasury changing the bank's focus in the future. There may, however, be instances where we need to update the definition of infrastructure or the bank's functions to ensure that the bank can continue to fulfil its objectives as a long-lasting institution. Let me give an example in which the noble Baroness, Lady Bennett—I see she is in her place—may take some pleasure. New green infrastructure technologies may emerge in the future which we would want explicitly to include in the bank's definition of infrastructure, to signal to the bank and the market that the bank can invest in these technologies.

Amendments 33 and 34 in the name of the noble Lord, Lord Sharkey, seek to strengthen parliamentary scrutiny of the bank's strategic priorities and plans, which he outlined eloquently. Amendment 33 would require parliamentary approval for the strategic priorities of the bank, which the Treasury produces, before they come into effect. Although his amendment is certainly well intentioned—I listened very carefully to his remarks, as well as those of the noble Lord, Lord Vaux—I do not believe it is required as the Bill as drafted allows for parliamentary scrutiny of the bank's strategic priorities by requiring a copy of the statement and any updates to be laid before Parliament.

There is a strong precedent for this already: the Bank of England Financial Policy Committee remit letter, the Financial Conduct Authority remit letter and the Ofwat strategic statements are all laid before, rather than approved by, Parliament. This is an appropriate level of oversight, particularly bearing in mind that the bank is a taxpayer-funded, government-backed institution.

Turning to Amendment 34, I would like to clarify the effect of the clause as drafted. It is necessary to read the clause as a whole, rather than just words in isolation, to interpret its effect:

> "The Bank must secure that its articles of association provide for the Bank … to publish and act in accordance with strategic plans which reflect the Treasury's statement".

I listened very carefully to the remarks of the noble Lord, Lord Sharkey, and as he rightly said we had a detailed discussion of this issue outside this Chamber. However, in our opinion this is sufficient to ensure that the bank acts in accordance with Treasury steers. The bank's articles must provide for it to do so, creating both the power and the expectation that it should, and being subject to the usual enforcement controls should it fail to do as provided by its articles. I realise that we may not entirely agree on this issue, but this is the response that I give today.

I listened carefully to the remarks from the noble Lord, Lord Davies of Brixton. I first apologise to him for the fact that I gather he has not had some answers to questions that he posed—I am rather mortified to hear that. I know that I have written a good few letters and I am sure my noble friend Lady Penn has as well, but may we look at which answers have not been given?

I will try to give the noble Lord a response anyway to the points that he raised, which were essentially asking what the bank's relationship is to pension funds. The *National Infrastructure Strategy*, which announced the UKIB, also set out how there is a huge opportunity for pension funds to support the UK's infrastructure ambitions. The bank's policy design document—its blueprint, if you will—set out how the bank will help to structure deals to attract international investments and unlock capital from institutions such as pension finds. I hope that gives some sort of an answer but, again, I will read *Hansard* and get some further answers to the noble Lord, Lord Davies, if appropriate.

With that, I would be grateful if the noble Lord, Lord Sharkey, would feel able to withdraw his amendment.

Lord Sharkey (LD): I thank everybody who has spoken in this short debate. I am of course disappointed that the Minister is disinclined to allow Parliament any meaningful contribution to the Treasury strategy

statements. Laying them before Parliament is emphatically not a way of involving Parliament in any meaningful sense. I continue to believe that the bank would benefit from Parliament's involvement, and we will continue to think of ways that that might be possible and acceptable to the Treasury.

I am even more disappointed by the Government's insistence on the two Henry VIII clauses remaining in the Bill. The Minister, as I suspected he might, prayed in aid the DPRRC in his defence of the two powers, essentially on the basis that the DPRRC said nothing about them in its report. I would observe that sometimes even Homer nods. In its report of last November the DPRRC said:

"We will always deprecate the use of Henry VIII powers where they appear to have been included in a bill 'just in case'".

In this Bill, these two Henry VIII powers are explicitly there just in case—just in case this Government or a future Government want to adopt a different policy.

Between now and Report, we will want to consider how these very broad and unconstrained Henry VIII powers may be limited in scope or sharpened in purpose and application—and consider, of course, whether they should remain in the Bill at all. In the meantime, I beg leave to withdraw Amendment 28.

Amendment 28 withdrawn.

Amendment 29 not moved.

7.42 pm

Sitting suspended. Committee to begin again not before 8.15 pm.

8.15 pm

Amendment 30

Moved by ***Baroness Kramer***

30: Clause 2, page 2, line 11, at end insert—

"(8) The Treasury must lay before Parliament a copy of an undertaking (the "operational independence undertaking") provided by the Treasury to the Bank for the purpose of facilitating the Bank's ability to act as its directors consider appropriate in the light of the objects in its articles of association."

Member's explanatory statement

This amendment would help secure the operational independence of the Bank.

Baroness Kramer (LD): My Lords, just before we took a break, I tried to give a quick summary of where we were on the relationship between the shareholder—the Treasury and the Government—the UK Infrastructure Bank as a company and Parliament. I will not repeat that sequence, but I think Ministers will have picked up my concern that, at every level, there seems very little role, if any, for Parliament and very little accountability in any form.

For that reason, I drafted Amendment 30. It is not my language; it is language I took from the Green Investment Bank, so we know that it works in law and has a precedent. It might be helpful if I read it into *Hansard*:

"The Treasury must lay before Parliament a copy of an undertaking (the "operational independence undertaking") provided by the Treasury to the Bank for the purpose of facilitating the Bank's ability to act as its directors consider appropriate in the light of the objects in its articles of association."

I did not include it in my amendment, which I slightly regret, but the relevant Act also says about the Green Investment Bank:

"An order under this section may not be amended or revoked."

Operational independence is captured in a very emphatic and direct way in that Act. That led to my question, which the Minister will remember from an early meeting: why is operational independence not in the Bill? If I understood the reply—she can correct me if I am wrong—it is because the legal advice was that the other clauses in the Bill would not permit it to be validly included as they contradict it. That is the reading of the summary I gave before the break.

Without operational independence, it will be very hard for the bank to thrive and to have credibility among private investors. I also consider it an underlying principle. As the Government so often make a declaratory statement about operational independence, I do not understand why that is not made much more substantive. Perhaps the Minister could explain why a mere declaration with nothing in place to support it is considered adequate.

At the beginning of Committee today, I also referred to the framework document. I think we have all accepted now that the framework document not only has no standing in law but can be changed at any point by the Government with nothing more than an agreement between the shareholder, in the form of the Treasury and the Government, and the company—that is, the bank. That has to be in writing and agreed between the parties, but there is not even a requirement to publish that change in the framework document.

I also referred to the resolution of disputes between the company and the shareholder. That brings me to the other amendments in my name in this group, which refer to Clause 4, "Directions", and various consequences related to it. The clause states:

"The Treasury may give a specific or general direction to the Bank about how it is to deliver its objectives. The Bank must comply with a direction. The Treasury must—consult the Bank's directors before giving a direction, and publish a direction."

The framework document is quite helpful in taking us down to a more detailed level. When it does that, it talks about the capacity of the board, if it objects to the direction that it has been given, to send a reservation notice in response to instructions from the shareholder that would—and these are the circumstances in which a reservation notice could be given—

"infringe the requirements of propriety or regularity … not represent good value for money for the Exchequer as a whole … be of questionable feasibility or is unethical … be contrary to the Strategic Objectives … result in the directors of the Company being in breach of their legal duties; and/or … not be in the best interests of the Company for any other material and demonstrable reason."

Some of these are quite eye-opening, such as

"the requirements of propriety or regularity"

and something being of "questionable feasibility or … unethical", resulting in the directors being

"in breach of their legal duties".

It also makes it very clear, however, that this could apply to an individual project that the bank sought to fund but on which the shareholder—the Treasury or the Government—decided no. Or it could be the opposite:

[Baroness Kramer]
the bank could decide that it should not fund a project, but the Treasury or the Government decide yes. It is very clear that it applies at that level.

It is hard for me to see how that leads to operational independence in any way, which is why Amendment 30 is crucial. I am not proud, and if there are other ways in which we can achieve it, I would be very happy—but at least it is language that has survived a previous legislative process and supported a bank that was in place for quite a number of years.

I told the Minister at the time that I would use this occasion to try to follow up what looks to me almost like a direction for concealment. As I said, if the bank receives an instruction, it can object with a reservation notice; the shareholder can then override that reservation notice and instruct the bank to go ahead, but it can

"inform the Board who shall undertake the Instructed Matter, without delay"

and

"if asked, explain the Shareholder's course of action; and … arrange for the existence of the Written Direction or any Oral Direction confirmed in writing to be published (unless the Shareholder has directed in writing to the Company that the matter must be kept confidential)."

That is the clause that particularly troubles me; it is a gagging clause, if ever I saw one.

I also asked the Minister: which executives and non-execs, which members of the board, have signed or are expected to sign non-disclosure agreements—we always get trapped by the name "confidentiality agreements"—or any other kind of agreement that would mean they cannot then go to the media? We have already established that there is no regulator so, without one, if they have signed confidentiality agreements, they have no mechanism and no one to whom they can go to disclose. I am exceedingly troubled by the idea that we have a bank that may be asked to do something that its senior members view as unethical or without propriety—or in fact illegal—under the terms of their duties, but they cannot even speak about it, report it or act in any way. I hope we get some fairly full answers from the Minister on that question, but it is frankly extraordinary.

When you put this whole package together, I cannot see that the current legislation in any way provides for operational independence. It may use the phrase "operational independence", but that is merely window dressing. I think I have pretty much covered the issues, but I hope other noble Lords will have comments to make in this area. I beg to move.

Lord Vaux of Harrowden (CB): My Lords, we have had various discussions around operational independence so far, most of which, until now, have addressed the ability of the Treasury to change the mandate within which the bank operates. Clause 4 goes directly to the heart of the Treasury being able to directly meddle in the activities of the bank. It gives the Treasury the right to

"give a specific or general direction to the Bank",

at any time, and which the board must follow, with the only safeguard being a requirement to discuss it with the board first. As we have heard, it can be pushed through, and any statements of reservation from the board can be hidden. On the face of it, it completely undermines the operational independence of the bank if the Treasury can actually tell it what to do.

The Minister has previously assured us that the Government would only use this ability to direct in rare circumstances, and she has said that there is a precedent for this type of direction clause. However, the Bill does not put any such restrictions on the use of direction—none at all—beyond the fact that it must be within the objectives of the bank. Therefore, those directions could be about whether or not to make a particular investment, or even the terms on which those investments could be made. It would allow the Treasury to insist on the bank financing vanity projects—I used the example of the bridge to Northern Ireland at Second Reading—or even to indulge in pork-barrel politics by directing investment into particular locations for reasons that may not be totally unpolitical.

The bank should not be put into those kinds of positions, and this Bill should not allow that to happen. Frankly, on the precedent argument, I always recoil when I hear, "We did it before"; those precedents were for different organisations and in different circumstances. It is not impossible that we might have actually got it wrong at the time. Just because we have done it before does not mean that we should do it again.

I have given notice of the intention to oppose Clause 4 standing part. I think that the clause is inappropriate, but I can concede that there might be occasions when it might be necessary for the Treasury to be able to direct the bank—I cannot actually think of any specific examples, but I can see that it could be possible. If the Minister can provide good reasons or examples for this right to direct being needed, then I could get comfortable with allowing direction in those clearly defined, limited and restricted circumstances. However, it cannot be right that direction can be given on the current unrestricted and unscrutinised basis. As I have said, that is not operational independence; it is hard to imagine how anything could be less operationally independent.

So please can the Minister explain, quite specifically, why the Government feel that they need this right to direct, and under what real and specific circumstances they can conceive of using it? If so, we can then work around this and try putting some restrictions and safeguards into the Bill to achieve that.

I have also added my name to the four amendments in the name of the noble Baroness, Lady Kramer, which attack the same problem from a different angle: to allow the Treasury to make recommendations to which the bank must have regard, rather than to comply with directions. I would prefer to remove all unnecessary meddling by the Treasury, as it were, but this might be a reasonable compromise. Similarly, the noble Baroness's Amendment 30 is another important way of trying to get this operational independence well imbedded in the Bill.

Baroness Noakes (Con): My Lords, as noble Lords know, I criticised the concept of the UK Infrastructure Bank at Second Reading on the basis that it was the Treasury's plaything and it had the Treasury's fingerprints all over it. That was against the background of my not

really liking public bodies being created to do things that I do not think there is any good reason for. I believe that once we have a public body set up—we accept that there is a reason to create a public body with access to privileged sources of financing—we have an obligation, as government, to put a proper control framework around it to ensure that public money is protected and that we have powers available to us to meet whatever circumstances might arise. So I part company with the two previous noble Lords who have spoken, because I think it is extremely important to have backdrop powers to be used when necessary.

8.30 pm

Powers of direction have been used for public bodies for a very long time. The Minister cited the instance of the Bank of England, and I think that goes back to the 1946 legislation. There may even be examples before that, but they were certainly included routinely in all legislation creating public bodies throughout the 1950s, 1960s and 1970s. It was examined on a number of occasions. There were discussions about whether specific or general powers of direction were the right things to have; both are included in Clause 4. They remained a cornerstone of the framework within which public bodies would operate within the UK. They largely fell out of use because the Conservative Government after 1979 started privatising a lot of public bodies—the main practical examples of those that lived on at that stage were in nationalised industries, and it was recognised as part of the nationalised industry control framework.

Over the history of powers of direction, I believe they have rarely, if ever, been used. They are not there to deal with operational matters; they are there to deal with something quite exceptional that would come up, for example, if a public body went rogue. And it is one mechanism, as opposed to changing the appointments of the whole organisation. In practical terms, a power of direction is there as a reminder of where the balance of power lies, and we must, I believe, protect the interests of the public sector, which creates this body, by having some kind of reserve power to deal with difficult situations. In practical terms, it allows conversations to be had between the sponsoring department, which in this case is the Treasury, and the public body, which in this case is the UK Infrastructure Bank, with the backdrop of a power that says, "We can use it if we really need to, but can we have a discussion about this?" I do think we need to see this in a much broader context, not as a particular affront to this particular so-called bank but as part of a long history of the way in which the UK public sector interacts and has a framework of interactions with its public bodies.

Lord Thomas of Cwmgiedd (CB): My Lords, I have just three brief observations. The first is that I think the clause of the framework agreement to which the noble Baroness, Lady Kramer, referred is wholly inconsistent with the Bill. The Bill requires the directions to be published; the framework says they can be made confidential. It is plain that the two are inconsistent, and the Bill must prevail. It seems to me that that emphasises the need to go through the framework to actually update it—it is part of the editing process that is needed.

My second observation is that I can see that, to some extent, as the Minister said at Second Reading, there may be circumstances of necessity or urgency. If there are—and, as the noble Lord, Lord Vaux, said, please can we have some illustrations?—those words need to go into this clause, because it seems to me, if I may respectfully agree, that we may need to cut down this power: we cannot use it, as is suggested in article 15, to resolve a dispute. That is not its purpose; its purpose is for something exceptional.

Thirdly, it seems to me that, if those illustrations cannot be provided, then the obvious answer is that it should be a recommendation that should be published. Of course, we all know that if the Government were to publish something sensible for a body like the bank, it would have no option but to comply with it. But it means you give effectiveness to operational independence, but you actually have the steel fist behind the velvet.

Lord Tunnicliffe (Lab): My Lords, there seem to be ideas all through this Bill, and the drafters have gone to one edge—to take all the power. That is the sense I get from a lot of our discussions tonight. I even had a slight tendency to want to agree with the noble Baroness, Lady Noakes—she should not get carried away; it was very slight. Once again, we have to find the centre to this, which must be something to do with Parliament. I do not have an answer, but I share the concerns. I headed a public body, and I do not remember a clause such as this ever being there; having said that, the Treasury quite openly had a clause under which it could give me directions on achieving things. It did it only once, and the results were so bizarre that it did not do so again.

The amendments tabled by the noble Baroness, Lady Kramer, are incredibly important. Several speakers raised questions about the bank's operational independence at Second Reading and it is right that we explore the topic in more depth today. In recent weeks, the Chancellor has been quick to point to the independence of another bank—the Bank of England—as justification for a lack of action on the cost of living crisis. Of course, the UK Infrastructure Bank is not dealing with monetary policy. However, if it is acting according to its mandate, why would the Treasury need to intervene? The Government may seek to play this down by claiming the word "direction" is standard terminology, but I think many reasonable observers would be troubled by its connotations. I hope the Minister can provide a meaningful response to the noble Baroness, Lady Kramer, and that we can continue discussing this important matter in the run-up to Report.

My Amendment 36 was put in this group. It has a slightly different intent from that of the noble Baroness, Lady Kramer, and the clause stand part notice of the noble Lord, Lord Vaux, but it does relate to operational independence. This is not intended as an attempt at party-political point-scoring, but in recent times we have witnessed a number of cases and accusations relating to the misapplication of procurement and other regulations. We know that, during the Covid crisis, some Ministers took a personal interest in the awarding of contracts. I am in no way wedded to the form of words used in Amendment 36, but there is room for a prohibition on these kinds of interventions in relation to the bank's work.

Baroness Penn (Con): My Lords, as we have heard, these amendments are all connected to the operational independence of the bank or the influence of the Treasury over it. The purpose of Amendment 30 from the noble Baroness, Lady Kramer, as she said, is to protect the operational independence of the bank.

It may be useful for the Committee if I set out why we do not have a clause in the Bill setting out the operational independence of the bank. As a matter of company law, the bank is already operationally independent. It has been operating as such, with its directors having duties to the bank, during the first year of its existence and in making its first seven investments. The Bill sets out the limited circumstances in which the Treasury, as the sole shareholder of the bank, can exercise more direct control over it. One of the main reasons for the Bill, which enshrines the bank's strategic objectives in statute, is to protect its independence. The Government are not able simply to change its objectives—

Baroness Kramer (LD): The Minister just mentioned the "limited circumstances" in which the Treasury may give direction. Can she point to those for us? It would be extremely helpful.

Baroness Penn (Con): I intend to come to some examples, as requested, when I move on to directions.

Baroness Kramer (LD): To confirm, there is nothing in the Bill that provides a limit; it is just that we will have examples to illustrate a self-denying ordinance—is that correct?

Baroness Penn (Con): I think the Bill sets out that the Treasury does have the power to issue direction, and it will be published if it is ever used. We have heard about the precedents. Although I know Members of the Committee have different views on the value of that, I thought my noble friend expressed that very well.

To return to the purpose of the Bill, the Government are not simply able to change the objectives or sell the institution without further legislation. The Bill also makes provision for transparency to Parliament and the public around any circumstances in which the Treasury issues directions or statements of strategic priorities to the bank.

Section 172 of the Companies Act also confirms the bank's independence: it states that the duty of the directors of the bank is to act in the way that is

"most likely to promote the success of the company"

and it requires them to have regard to factors such as the desirability of maintaining a good reputation for the bank, the bank's impact on the community, the environment, and the need to foster business relationships. A clause setting out that the bank is operationally independent would therefore be unnecessary as that is already the legal default position and has been reflected in the bank's independence over the first year of its existence, and the process by which it has entered into its initial investments.

Amendment 30 would require the Government to give an operational independence undertaking for the bank. It is, as the noble Baroness noted, a copy of the provision in the Enterprise and Regulatory Reform Act 2013 for the Green Investment Bank. As I have noted, we do not think this is necessary since it is a matter of company law that the bank is already operationally independent, and the Government have been consistent in their statements on this matter.

To respond to the noble Baroness's point, we believe that the bank's operational independence is substantive, not a kind of declaratory position, however—

Lord Vaux of Harrowden (CB): I am just trying to understand more about why the statutory basis of the bank gives it this level of operational independence. I do not think there is anything in the articles which provides that, so where does this come from—I think these were the words the Minister used—as a matter of law?

Baroness Penn (Con): I think there are two elements to it: the bank is established under the Companies Act 2006, and as a matter of company law is operationally independent, and then, in terms of what this Bill does, the bank—

Baroness Kramer (LD): I am really confused about why company law would provide operational independence. It would be really helpful if the Minister could address that. I think she just said that it had to behave with proper propriety or reference to its reputation, but that is nothing to do with operational independence.

Baroness Noakes (Con): Perhaps I could help the noble Baroness: as a matter of company law, shareholders have relatively few powers in relation to how a company is operated on a day-to-day basis. Their powers derive from their ability to pass resolutions, either at annual general meetings or special meetings, but there are no powers within the articles of association, et cetera, for shareholders to intervene, except via the mechanisms of calling general meetings and passing resolutions. Almost by definition, they are not involved in operational matters. I think my noble friend made a fair statement that for a company operating under company law, it is already hard-wired into its structure that shareholders cannot intervene on a day-to-day basis, just because there is no mechanism for them to do so.

Baroness Kramer (LD): I will just challenge that slightly, because this all goes hand in hand with the direction, which can be specific. We are talking not just about general direction but about specific direction. I am completely unclear that the shareholders of a company could instruct it, for example, to invest in a particular pharmaceutical process to serve a particular customer base. That is entirely within scope; it is equivalent to the language within the Bill.

8.45 pm

Baroness Penn (Con): We absolutely will come on to discuss the power of direction. The basis that we wanted to establish is that the Government have two powers in the Bill: the power of direction and the power to issue

a strategic steer. However, setting those aside for one moment, day to day, the bank has its operational independence, and the basis of that is in its establishment as a company subject to company law.

We were debating Amendment 30, which seeks to establish that operational independence in the Bill. The Government believe that that is already provided for in the bank and so does not need to be set out separately in the Bill. However, the noble Baroness is absolutely correct that, if we were to set out in the Bill the operational independence clause that she has taken from previous precedent or somewhere else, we would still need to write into the Bill the two powers that we are going to talk about: the power of direction and the power to issue a strategic steer. Therefore, I absolutely accept that those two powers override in some ways, on those issues where they may be used, the operational independence of the bank.

I was trying to make another point on what this law is doing to strengthen the independence of the bank. As we know, the bank is already up and running. As the noble Baroness quoted from its operational framework, the Government and the Treasury already have the ability to issue it with a strategic steer and with powers of direction. The Bill puts those powers in statute but gives transparency requirements around them. In the establishment of the bank by statute, it is not for the Government to be free to then sell the bank or change it without returning to Parliament. UKIB is a separate legal personality in law, which is what I was trying to establish.

It may be worth moving on to the power of direction. As I said, it is a matter of company law that the bank is already operationally independent, and the Government have been consistent in their statements on this matter. The limited exceptions to this, as set out in the Bill, preserve the Government's proportionate shareholder rights, which is appropriate for an institution which is in receipt of public funds. As I said to the noble Baroness, I accept that if we were to have such a clause in the Bill, any operational independence undertaken would still need to include the exemptions for the strategic steer and the power of direction.

On Amendments 35, 36, 37, 40 and 41, and the clause stand part objection in the names of the noble Baroness, Lady Kramer, and the noble Lords, Lord Tunnicliffe and Lord Vaux, these would seek to soften or remove the Government's powers of direction over the bank so that their directions would no longer be binding. I understand that the aim of these amendments is to protect even further the bank's operational independence. However, it might be helpful if I quickly set out why we have this in the legislation.

The power of direction is one of a small number of exceptions to the bank's operational independence. It is right that, as a sole shareholder and as the department that must explain the bank's activities and spend to Parliament, the Treasury exercises limited amounts of control on the bank. Although the Government expect to use this power infrequently, constrained powers of direction are a relatively common feature of similar institutions such as the British Business Bank, HMRC and the Bank of England.

I hope noble Lords will appreciate that the examples are illustrative and intended to set out the circumstances that could potentially justify the use of such a direction in future. There may be aspects of national security where we may need to intervene on specific investments. We may need to direct the bank to invest in a technology that has the potential, if developed, to be particularly beneficial to the environment but may not meet its return on equity targets. That speaks a small amount to a debate we had earlier about the need to meet the double bottom line versus potential further public policy good from taking greater risk than would otherwise be the case. There may be some other emergency scenario where the bank is an appropriate institution to act. It is worth noting that the Department for Business, Energy and Industrial Strategy used a similar power to direct the British Business Bank to organise the Government's Bounce Back Loan Scheme. Although those are illustrative examples, that final one might demonstrate that it is hard to anticipate all the circumstances in which we may want to use this power. Therefore, setting out greater circumscription of the use of the power is difficult in those circumstances where it is hard to anticipate the unknown of the future.

Should we remove the clause, the Government could still rely on our ability to issue directions as a shareholder and as set out in the framework document. However, crucially, there may be situations where the board could refuse a direction if not in statute, given its obligations under the Companies Act. This would likely lead to unnecessary tensions between the Treasury and the bank, which are best addressed in the way that the Bill provides, by introducing transparency to Parliament and the public over the use of the power of direction.

I committed to coming back to the noble Baroness, Lady Kramer, on issues she raised earlier in Committee. On the use of the power of direction, the Bill sets out clearly the Government's ability to issue a written direction and the requirement for it to be published. The framework document provides a process that can precede the issuing of a written direction, with a written direction being the final step in a disagreement. As the noble and learned Lord, Lord Thomas, noted, the powers of the Bill to issue a direction take precedence over the framework document with regard to written directions, but I note the noble Baroness's point about reservation notices. The Government are committed to giving the bank's board freedom to operate the company in seeking to achieve its strategic objectives. It is not the intention of the Government nor the drafting of the framework document to gag the bank, and I should be happy to discuss the matter further with the noble Baroness ahead of Report.

To pick up the noble Baroness's point about whistleblowers, UKIB must adhere to the expectations of the corporate governance code, as well as, more broadly, public sector accountability obligations for the conduct and corporate policies that it has as an organisation. This includes having in place a whistleblowing policy. On non-disclosure agreements, or any name they may go by, UKIB is operationally independent but we understand that it has no NDAs in place.

[Baroness Penn]

I hope that has answered the noble Baroness's earlier questions and some of the further questions about operational independence and the Government's ability to issue a direction to the bank. I therefore hope that she will withdraw Amendment 30.

Baroness Kramer (LD): I will obviously withdraw in Committee, but I cannot see the harm, only the benefit, of putting operational independence in the Bill, particularly using language that has been well established in a previous Bill. The Minister refers often to precedent. Here is a precedent that I think is quite attractive, and we know that it has been very successful. I see no reason not to make that happen, so that we have not just declarative statements or rely on a very narrow piece of company law. That will be something that we will want to explore.

Moving to the issue of directions, there is some useful language which we might take from the framework document. I see no reason why we should not prohibit disclosures that infringe on the requirements of propriety or regularity, those which are of questionable feasibility or unethical, or that result in the directors of the company being in breach of their legal duties. We could certainly put some constraints on those powers. I was astonished to read in the framework document that it contemplated that directions would indeed fall into all those categories and therefore provide for them. That will be quite interesting. I will be very glad to discuss the issue of gagging orders of various kinds.

Some fruitful ideas that we will want to explore further have come out of this discussion. We always have to take this and all the other constraints that we have discussed in earlier phases of this legislation in context, but I beg leave to withdraw my amendment.

Amendment 30 withdrawn.

Clause 2 agreed.

Amendment 31 not moved.

Clause 3: Strategic priorities and plans

Amendments 32 to 34 not moved.

Clause 3 agreed.

Clause 4: Directions

Amendments 35 to 41 not moved.

Clause 4 agreed.

Clause 5 agreed.

Amendment 42 not moved.

Clause 6: Annual accounts and reports

Amendment 42A

Moved by ***Baroness Noakes***

42A: Clause 6, page 3, line 10, at end insert—

"(1A) The Bank's directors must ensure that the accounts and reports referred to in subsection (1) include a statement of the extent to which the Bank has achieved its objectives as set out in subsection (3) of section 2."

Baroness Noakes (Con): My Lords, Amendment 42A amends Clause 6 of the Bill dealing with annual accounts and reports, which is one of my specialist topics. I also speak to Amendment 55 in this group, which is in my name.

Amendment 42A simply requires that the bank's annual report contain a statement of the extent to which it has achieved its objectives under this Bill. My purpose in tabling this amendment is to ensure that there is an adequate, regular supply of basic information to support parliamentary accountability. The Treasury does not need to rely on formal publications by the bank, it has its own nominee on the board, and it has negotiated its own extensive access rights to information as part of the framework document.

The framework document acknowledges that the bank may give evidence at the Public Accounts Committee or the Treasury Select Committee in the other place and hence envisages the accountability of the bank to Parliament, which must be right. All that my amendment seeks to do is to ensure that there is at least some core, routine, regular information to support that accountability. In passing, I note that the framework document is silent on the role of Select Committees of your Lordships' House. Can the Minister assure me that there will be no barriers to the bank appearing before one or more of them?

9 pm

I do not believe that the statutory reports and accounts, which this organisation would have to produce by company law, are required to include performance against objectives in the rather straightforward way that I have set out in my amendment. The strategic report required by Section 414C of the Companies Act 2006 requires

"a fair review of the company's business, and … analysis using … key performance indicators",

so the bank might give an account of its performance against its objectives, but it might not. If noble Lords are familiar with looking at annual reports, they will know that it is sometimes a real struggle to winnow out useful information from the diagrams, pictures and management speak that are a feature of them. My amendment simply tries to make it clear that we get a report on how well it is doing against its objectives—no more and no less.

Amendment 55 returns to the issue of crowding out, which I addressed in my Amendment 12 earlier. This would add a reporting requirement to the occasional reports that the Treasury will make under Clause 9. The effectiveness and impact requirements under Clause 9 deal only with the bank's effectiveness in dealing with its objectives and its impact in relation to climate change, which are the issues set out in Clause 2. Since the avoidance of crowding out is not an objective of the bank by virtue of Clause 2, and because the framework document relegates it to an operational principle, it would not automatically be covered by any review under Clause 9. That would be the case even if we imported the operational principles into the Bill, as the noble Lord, Lord Vaux, proposed with his Amendment 14. We must not lose sight of this issue of crowding out—the Treasury, Parliament and Ministers must not lose sight of it—which is why I have drafted it as a specific requirement of the occasional reports that would come by virtue of Clause 9. I beg to move Amendment 42A.

Lord Vaux of Harrowden (CB): My Lords, I speak to my Amendment 56, which again relates to the crowding out discussions we had earlier. Amendment 55, in the name of the noble Baroness, Lady Noakes—I am pleased we are back on the same side again on this discussion—is aimed similarly, as is the amendment in the name of the noble Lord, Lord Holmes of Richmond, although his is for a one-off report rather than ongoing reporting.

We have already discussed crowding out and crowding in, in some detail. As I have said, if the bank simply ends up becoming a cheaper form of subsidised finance in situations where private finance is already available, we will have failed. The investments it has made so far, including in solar farms, are not terribly encouraging in this respect. Solar farms are easily financed. They are a nice, solid, predictable revenue stream—the perfect thing for private finance—so it is hard to see what benefit the bank brings in such a situation.

To see how effective the bank has been, it is essential that we measure and report on how successful it has been in its fundamental role of being a catalyst to crowd in private sector finance. How much has it crowded in? The amendment from the noble Baroness, Lady Noakes, tries to do this by looking at whether the bank's activities have been confined to situations where there is an undersupply of private finance. My amendment takes a slightly different approach, requiring an actual assessment or measurement of the amount of private sector finance that the bank has crowded in, and an assessment of the extent to which it has replaced private sector finance that would otherwise have been available.

Looking again at the wording of my amendment, I regret saying that the assessment should be by the Treasury. It would be better if the Treasury did not mark its own homework, but I know we are coming to that later. I am sure the Minister could quibble with the wording, and that it could be worded more elegantly. However we do it, this is a fundamental measure of how successful the bank has been, how effective it is and whether it is a good use of taxpayers' money. Somehow, within Clause 9, we need to include some measurement of crowding in and crowding out.

The Lord Bishop of St Albans: I declare my interest as president of the Rural Coalition and shall speak to my Amendment 57; I can be fairly brief. This amendment would require the Treasury to rural-proof the bank's activities as part of its review every seven years. I shall not go over what I said on my earlier amendment as I have already referred to some of the case for rural-proofing. It is very important. It already exists as a tool to ensure that policymakers and analysts assess the effectiveness of their policies across rural areas. All government departments are subject to it, with the aim of embedding the principle that rural communities must be adequately considered when developing policy. The UK Infrastructure Bank ought not to be exempt from this as it is wholly owned by the Treasury.

Even then, the precise nature of the rural-proofing contained in this amendment is far weaker than the guidance to which most government departments are subject. Rather than require rural communities to be suitably considered in investment decisions, this amendment simply places a duty to review any disparate or adverse impacts or discrimination towards rural areas with respect to the bank's activities. This would offer a framework for the Treasury to judge UKIB's activities so that rural communities are adequately accounted for as part of its review. If rural-proofing requirements are good enough for the Treasury, they are more than apt to cover UKIB. This amendment would help to reassure rural communities that their concerns will be considered by UKIB and that at a minimum they will not be negatively impacted and will, we hope, be supported by the bank. When the Minister responds, I hope she will be able to offer some reassurance that the activities of the UK Infrastructure Bank are already covered by the current rural-proofing guidance to which the Treasury is subject. If they are not, how will the Government ensure that the bank will be properly rural-proofed in a similar manner to all other government departments?

Lord Holmes of Richmond (Con): I shall speak to my three amendments in this group, which all concern reporting requirements for the bank. Amendment 64 takes us back to inclusive by design and asks HMT to produce a report within six months on how the bank is achieving it in its investment and to look across the whole of the UK infrastructure and put a plan together for how all of it can be made inclusive. Does the Minister agree that infrastructure investments which are not inclusive would not only fail the public sector equality duty and thousands, potentially millions, of people but should de facto also fail the economic test set for all the bank's investment?

On Amendment 65, perhaps we should feel positive because crowding out has already encouraged the crowding in of three amendments on this area. My regret on my amendment is that I have put it in the singular rather than suggest the continuous reporting requirement. As other noble Lords have set out, it is a fundamental issue for the bank. To that end, will the Minister reiterate what is said in the blurb on the bank about what multiple can be returned on investments? More than that, as real investments have now been made by the bank, what multiple and what actual level of funds have been crowded into those investments?

Returning to my Amendment 15, I remind my noble friend that, when it comes to nature-based solutions, investments in peat projects return £4.60 to the pound while those in woodland projects return £2.80 to the pound. Does my noble friend the Minister agree that both these levels are above what the bank is setting as its multiple return on investments made?

My final amendment, Amendment 66, is very brief; it simply asks for a report to be placed on the rate of interest that the bank determines to charge. Can my noble friend share some of the detail underpinning the basis points that have been determined at this stage for the bank's investment level? How will that sit alongside other investment funds, and how will it compare with where previous funding would have come from, such as the Public Works Loan Board, et cetera? How has that interest rate been arrived at? Will a report be placed within six months of the passing of this Act on how it has run in that period?

Baroness Kramer (LD): My Lords, I will speak first to the generality and then to my amendment in this group. As to the generality, all the proposed changes or enhancements to Clause 9—reviews of the banks, effectiveness and impact—seem significant and important; it is a clause that we definitely need to improve. The two areas that reviews currently have to cover, namely

"the effectiveness of the Bank in delivering its objectives, and … its impact in relation to climate change and regional and local economic growth",

are interesting, but they have not covered even a small portion of the questions raised on the floor just today. A much more comprehensive review strikes me as exceedingly worth while and something one would anticipate the bank to be eager to deliver.

My Amendment 67 deals with the UK Infrastructure Bank. I admit that it arises from a frustration that the national infrastructure strategy is not on a statutory basis. Our cycling and walking strategy is on a statutory basis but not, apparently, our national infrastructure strategy. It seems important that, if any respect is to be given to that strategy, it should be linked in some way to the work of the UK Infrastructure Bank. Where there are differences, we should at least be aware of them, and that could lead either to the strategy being amended or indeed to a rethink of some of the objectives of the bank.

I am trying to take some steps on what others have described earlier in various ways—to pull together things that seem to cover the same territory, rather than constantly having fragmented reports going in one direction, funding in another and decision-making in another. It seems that the review mechanism may be the lightest-touch way to pull together these various strands and give us a sense of coherence about what is happening with the development of infrastructure in this country.

Lord Tunnicliffe (Lab): My Lords, we can know whether the bank is meeting its objectives and strategic priorities only if the periodic reviews of its work cover the right areas. We will turn to the timing of the reviews shortly, but the number and range of amendments in this group suggest a scepticism around the current provisions. As I said during an earlier debate, we have no desire for parts of the Bill to resemble a shopping list. However, Clause 9 is currently incredibly high level, to the point where it provides virtually no steer whatever.

At a minimum, I urge the Minister to seriously consider Amendment 56 in the name of the noble Lord, Lord Vaux, and Amendment 67 from the noble Baroness, Lady Kramer. These requirements would add value. I imagine that some of the other amendments in this group, although tabled with the best of intentions, will be covered by other mechanisms, including the bank's own annual reports. I hope the Minister can clarify that.

9.15 pm

Baroness Penn (Con): My Lords, as we have heard, these amendments all relate to the reporting on the bank and the content of any statutory review of the bank. Amendment 42A, in the name of my noble friend Lady Noakes, seeks to ensure that the bank's annual accounts and reports will contain a statement on the extent to which the bank has achieved its objectives. I hope I can provide some reassurance that UKIB already has obligations to publish in its strategic plan details of how its strategic objectives are being fulfilled, as well as how its activities meet its operating and investment principles.

There were also a number of amendments detailing what the statutory review of the bank should look into. Amendment 55, from my noble friend Lady Noakes, Amendment 56, from the noble Lord, Lord Vaux, and Amendment 65, from my noble friend Lord Holmes, all relate to the additionality of the bank and how it will work to crowd in private investment, not crowd it out. In response to my noble friend Lord Holmes, I am happy to restate that it is our expectation that the bank will crowd in £18 billion of finance from £8 billion. The evidence to date is that £300 million could have unlocked £500 million of private finance.

As I said previously, how effective the bank has been in meeting its objectives, including additionality, is a really important point and one I would expect the statutory review to look at. I also re-emphasise to noble Lords how seriously additionality is taken by the bank itself. As I mentioned, I would expect to see in the bank's strategic plan, published later this month, a list of KPIs that it will use to measure its impact. One of those will be on the private finance it has brought in.

On Amendment 57, from the right reverend Prelate the Bishop of St Albans, the bank takes its obligations to providing regional and local economic growth across the UK, including to rural communities, very seriously. As I mentioned, the bank will have a number of KPIs to ensure that it is meeting its objectives and will detail these in its upcoming strategic plan. I appreciate that I have not seen the strategic plan either, but if the right reverend Prelate would like to discuss that further having seen it, I would be very happy to do so.

Amendment 64 is on the review of inclusive infrastructure. The bank carefully considers the impact of its decisions on those sharing protected characteristics, in line with its legal obligations and its strong commitment to promoting fairness. It has a rigorous process in place to ensure that it complies with its legal requirements under the public sector equality duty in the Equality Act 2010. Impacts on protected characteristics are appropriately flagged and assessed before the granting of loans.

Amendment 66 is on reporting of the bank's lending. The bank can already determine the level of its own investments in line with its capitalisation and annual limits that are agreed in its framework document. The bank will report on its lending in its annual report and accounts, which will be published and laid before Parliament.

Amendment 67, from the noble Baroness, Lady Kramer, suggests that we conduct a review of the bank to ensure it continues to meet the aims of the national infrastructure strategy. I can provide the noble Baroness with some assurance that this is precisely what the Government will do when they review the bank as part of the arm's-length body review in 2024-25.

Further to this, the National Infrastructure Commission will publish its second national infrastructure assessment next year, and the Government will consider future updates to the national infrastructure strategy in view of this assessment. We will continue to ensure that the bank is made aware of how its work can complement the Government's long-term infrastructure strategy, including through the statutory strategic steers, powers for which are contained in the Bill.

I therefore hope that, at this stage, my noble friend Lady Noakes can withdraw her amendment and that other noble Lords will not move theirs.

Baroness Noakes (Con): My Lords, I thank my noble friend the Minister for that response. We have had an interesting, short debate. This is rather a varied group of amendments. There is only one link between them, in that they are all about reporting. Apart from that, a lot of different issues are raised—not all of which I will comment on, because they were not covered in my own amendments.

I will deal with the issue of crowding out or crowding in. The noble Lord, Lord Vaux, and my noble friend Lord Holmes of Richmond have a concern around this. My noble friend said that the report under Clause 9 would cover this, but the report under Clause 9 is about how well it has achieved its objectives. The objectives are very clear in Clause 2: to help tackle climate change et cetera, and to support regional and local economic growth. It is not an objective to achieve a crowding in or avoid crowding out. That has been the heart of one of the problems. I hope that when we have our further discussions on crowding in and crowding out, which we have already established that we will have before Report, we can cover this aspect. This is part of the whole problem of how to express the additionality requirement and then how to measure it and report on it. It is part of the same theme, so I will not labour it further now.

My Amendment 42A was about having something in the annual report and accounts on how well the bank is achieving its objectives. I am not at all clear that this is met by what my noble friend said, which was something to do with the strategic plan and the KPIs. Tomorrow I will read carefully in *Hansard* what she said, because I probably did not concentrate quite as hard as I should have. I do not think she answered the question, and I may well want to return to it either on Report or with her before Report. On that basis, I beg leave to withdraw.

Amendment 42A withdrawn.

Clause 6 agreed.

Clause 7: Directors: appointment and tenure

Amendment 43

Moved by ***Baroness Kramer***

43: Clause 7, page 3, line 14, leave out "fourteen" and insert "thirteen"

Member's explanatory statement

This amendment would change the maximum number of board members from fourteen to thirteen.

Baroness Kramer (LD): My Lords, I recognise that the Clock is moving rapidly, so I will be quite speedy. These amendments are reasonably self-evident. With the amendments that stand in my name here, I have tried to set what seem obvious principles for the way in which a board of directors is set up. That is, as covered by Amendments 43 and 44, to make sure that the total number of board members is an odd number, not an even number. With a board of directors, it is surely appropriate to be as certain as possible that the chair's casting vote will be used as rarely as possible. Hopefully, decisions will not be so contentious that the board is completely split, but where that happens it is far healthier to have a resolution provided by an odd number of members than to have to look again and again to the chair's casting vote. It is quite curious that 14 is the proposed number of directors. Now and again, we would find ourselves looking to the chair, and I think that would be genuinely unfortunate. It is not the most important issue in the world, but it seems to me that some decent housekeeping would not hurt here.

I also want to be sure, in Amendment 45, that the majority of board members must be non-executive directors. It does not speak to that in any way and, given that the board can be as small as five, you could easily see a situation in which three of the members were executives and only two were non-execs. It seems a simple principle.

Probably my most significant amendment in this group, on an issue that has been addressed by others, is Amendment 49. We have talked before about the importance of having the right range of skills on the board—people of independence, and people with expertise and knowledge. Amendment 49 simply asks the bank's chair to keep under review such characteristics and, if he feels that there are gaps, to take steps to address or mitigate those shortcomings.

It is important to put that responsibility on the chair and not just to say, "Well, Treasury will take care of that. The Chancellor of the Exchequer appoints everybody and therefore he will decide what kind of skills are necessary". We have talked about the operational independence of the bank. Frankly, if the chair cannot even guide what kind of skills he needs to be on his board, we are once again underscoring that there is no operational independence. It seems to me a standard and normal responsibility for a chair, and I simply ask that there be an opportunity for that to happen here.

Lord Vaux of Harrowden (CB): My Lords, I will be very brief in speaking to my Amendment 46, but first, let me say that I support the amendments in the name of the noble Baroness, Lady Kramer. Frankly, they seem like normal, good practice and it is almost surprising that they are not already in the Bill.

Amendment 46 is very simple. The bank's activities will cover the whole of the UK, including the devolved nations. I welcome that—it is a really good thing—but while allowing the bank to operate in the devolved nations, the Bill gives absolutely no right at all to the devolved Governments to have any say in how it operates. I would be completely opposed to giving veto rights or anything of that nature, but I do think it would be appropriate to allow them at least some input into the bank's direction. As someone who lives

[Lord Vaux of Harrowden]
in Scotland, I am not the world's greatest fan of the Scottish Government, but devolution is a fact and we have to live with it and work with it. The devolved Governments have perfectly reasonable interests in how investment is directed in their countries.

It seems to me that the easiest way to achieve this is just to allow the devolved Governments to be represented on the board of the bank. Amendment 46 would simply allow the devolved Governments each to appoint a director to the board. That way, they would have the ability to represent their legitimate interests without introducing any veto rights or anything of that nature, which, obviously, we should avoid.

If we want to keep this union together, we need to recognise that the devolved Governments have legitimate interests, and we need to try to work together.

Baroness Bennett of Manor Castle (GP): My Lords, it is a pleasure to follow the noble Lord, Lord Vaux, and to find myself in broad agreement with him on a number of areas of this Bill, if not always on the details—as with our views on the Scottish Government, which, of course, has Green Ministers among its members.

My amendment is rather similar to his, although perhaps not quite so expansive on the devolved Administrations. It says that

"a director must be appointed"

jointly by

"the governments of Scotland, Wales, and Northern Ireland".

It specifies two other directors, one of which would be appointed by the Climate Change Committee. I am a little disappointed that the noble Lord, Lord Deben, is not in his place, as I would be interested in his view on that. The third director—there is a deep irony here, and I should point out that I tabled this amendment some 10 days ago—would jointly represent Natural England, Nature Scotland and Natural Resources Wales.

In a sense, this is another way of getting at the issue I was trying to get at earlier. The Treasury does not really have expertise on environmental and social issues and devolution, and the same can be said, often, of bankers. This is an attempt to ensure that the directors really do have that expertise.

However, events have forced me to reflect at this point on the fact that a lot of our earlier discussions were about the operational independence of the bank. It is rather telling that Natural England was, of course, an independent body, and over the last decade it has gradually lost its independence under the hold of Defra. It was deprived of its independent online presence and its own press office in 2012, and in 2018 its former chair, Andrew Sells, confirmed that the body is no longer independent.

It has emerged in the last week—buried deep in a consultative proposal that campaigners have only just uncovered—that the Government are consulting on dismantling Natural England. That has caused a great deal of concern but it is a real demonstration of so many points that noble Lords have been making about how Governments can have structures that are supposed to hold them to account and somehow, through a process over a decade or so, effectively dissolve those structures.

This is an attempt to deal with the issues that the noble Lord, Lord Vaux, has already covered well. I also point to the Second Reading speech from the noble Lord, Lord Wigley. I will not go through it in detail but what he said there was that the bank needs to work with the grain of devolved Governments, regional and local government. Looking at this amendment now, I wonder if I should not also have put "a representative of local government" in it, but that is something to think about for Report.

9.30 pm

Lord Thomas of Cwmgiedd (CB): My Lords, there are obviously different ways of trying to ensure two things. On one, expertise, my long experience of bankers has persuaded me that they are not the right people to be exclusively on this board. One needs someone with the expertise of addressing the objectives of the bank. That is critical. The second is to keep the union together and it is no use saying—I hope that we will not get this from the Minister, who has been so receptive to many points—"Don't worry, we'll all do the right thing". I come from a school where if you all agree on what the right thing is, why do you not write it down?

That is really what I am saying: let us write down that you should have experts in the various areas central to the bank's objective and make provision for those who live in the devolved nations to feel that the bank is acting in their interests. Here, the question of perception is critical. The idea that the Treasury carries on as before is, to my mind, not apposite in the current time. I would hope that the way in which I have phrased my amendment might be slightly more acceptable to the Treasury in that it would leave it with the decision while giving it objective standards. One can but hope.

Baroness Noakes (Con): My Lords, I shall make just a couple of comments. I support the noble Baroness, Lady Kramer, on her Amendment 45, which requires there to be a majority of non-executives on the board. My noble friend the Minister will doubtless say that the UK Infrastructure Bank will have to comply with the UK governance code, and therefore it has to have a majority of non-executive directors. But any public body that is set up always has the provision that there is at least a majority of non-executive directors on the board. It would be good practice to replicate that for the appointments here, given that we are dealing with those appointments in statute anyway.

I am not attracted by having odd numbers on the board. If there had been a problem, it would have surfaced in the UK Corporate Governance Code before now. The plain fact is that if there ever is a situation where a board is split, no chairman will use a casting vote to push something through. Boards simply cannot operate on that sort of basis. Normally something is withdrawn, people regroup and compromise is reached. It is just not a problem in practice, so we do not need to reflect it in the Bill.

One thing I really want to do, I am afraid, is to disagree with the noble Lord, Lord Vaux of Harrowden, on giving appointment rights to First Ministers in the devolved Administrations. I completely accept that the devolved Administrations will want to feel involved

but I prefer the formulation in the amendment of the noble and learned Lord, Lord Thomas of Cwmgiedd, which is about recognising that a knowledge base is important to have on the board. Another and more normal way of doing it is to have a consultation option available to take the views of the devolved Administrations.

However, it is really important to avoid having representatives on boards. It will destroy the collective nature of the board if you have people parachuted in from outside with their only virtue being that they were a political appointment. It is really important to preserve the nature of the board as being an area—picking up what is in these other amendments—to bring together the skills and experience necessary to have the right decision-making processes.

Lord Tunnicliffe (Lab): My Lords, I have two interests in this group, having tabled Amendments 48 and 51, but I shall take them out of order as one is general and the other more specific. Amendment 51 is linked to the one tabled by the noble Baroness, Lady Kramer. It seeks to ensure that the bank's board comprises individuals with knowledge and experience relevant to its objectives.

The second strand of the amendment is arguably more important as it suggests that the board should have knowledge and experience of the nations and regions of the United Kingdom. This is a slightly different proposition from those of the noble Lord, Lord Vaux, and the noble and learned Lord, Lord Thomas. It is vital that the nations of the United Kingdom are properly involved in this process. However, it is equally important that the bank appreciates the very different needs of England's regions. The Bill sets the objective of achieving regional growth, yet there is no mechanism within it to ensure either a fair split of investment activity across the nations and regions or to address entrenched regional imbalances. Appointing the right board members may not directly address those concerns, but it would at least move things in the right direction.

Returning to the theme of jobs, my Amendment 48 proposes that at least one member of the bank's board should be a workers' representative. From previous debates, we know that the Government's ambition is for jobs created through UKIB funding to be well-paid, secure, and so on. Surely the most effective way of ensuring that the bank supports the right forms of employment is for its board to have somebody with a track record of representing working people.

The Minister will resist the amendment, but in doing so, can she tell me precisely what alternative mechanisms are in place to ensure a voice for workers? I suspect there is none, once again calling into question the Government's commitment to improving employment practices and rights. Labour wants the bank to be a force for good in all nations and regions of the United Kingdom, creating the highly skilled, secure jobs of the future. The Chancellor talks a good game, but he is falling back on his rhetoric in the Bill. I hope the Minister will reconsider.

Baroness Penn (Con): My Lords, before turning to the detail of the amendments, I will give a short update on the bank's recent appointments, as it has recently appointed its first non-executive directors, who all have extensive expertise in the bank's areas of interest.

These include Bridget Rosewell CBE, who brings experience as a director, policymaker and economist, with roles in the M6toll company, Northumbrian Water Group and Network Rail, among others. Also appointed is Nigel Topping, who will bring a unique mix of experience across manufacturing businesses in the UK regions and industrial transformation to the zero-carbon economy. He was most recently appointed by the Prime Minister as the high-level climate action champion for COP 26, where he launched the Race to Zero and the 2030 climate breakthroughs.

The bank is also ensuring that it recruits the necessary technical expertise, including welcoming its first lead climate advisor, Professor Andy Gouldson, an internationally recognised expert on place-based climate action, who will work with the bank to shape its impact. Noble Lords may also be interested to know that the bank's chief risk officer, Peter Knott, is a non-executive director at the Scottish National Investment Bank. I have no doubt that the board will be able to act in the interests of the whole United Kingdom when carrying out its duty.

I turn to the detail of Amendments 43, 44 and 45 in the name of the noble Baroness, Lady Kramer. As she said, Amendment 43 would change the maximum number of directors on the bank's board from 14 to 13. I can see the logic for doing so, to prevent a tie in a board meeting vote. However, as set out in the articles of association and in line with market practice, quorum for board meetings is lower than the total number of directors and, in a scenario where there is a tie, it is the chair of the meeting who takes the deciding vote—again, as is standard market practice. This is set out in paragraph 92 of the bank's articles of association. Furthermore, reducing the maximum board size to 13 limits the bank's flexibility to have committees with separate membership. Amendment 44 would require the number of directors to be an odd number—again, with a similar intention to that of Amendment 43. On both these points, as my noble friend Lady Noakes said, there is nothing in the corporate governance code about these matters. The same arguments apply to what would happen in a tie for Amendment 44 as for Amendment 43, with the chair having the ability to cast the deciding vote.

Amendment 45 would require NEDs to hold a majority on the board. This is very sensible, and is in the framework document and the corporate governance code. When drafting this legislation, as we have discussed, we have sought to strike a balance between what is sufficient to be in the framework document and articles of association, and what needs to be in the Bill. The bank will report on compliance with the corporate governance code annually through its report and accounts, which are published in Parliament.

Amendments 46, 47, 48, 50 and 51 are all related to the experience of the board. Amendment 51, in the name of the noble Lord, Lord Tunnicliffe, and Amendment 50, in the name of the noble and learned Lord, Lord Thomas, would ensure that the bank has the right expertise to

[Baroness Penn]
fulfil its objectives, and has appropriate regional experience. Amendment 46 from the noble Lord, Lord Vaux, is similar, although it allows the devolved Administrations to recommend their own nominee for the board. Amendment 47 from the noble Baroness, Lady Bennett, is a combination of the two, with recommendations on directors coming from the Climate Change Committee, the devolved Administrations, Natural England and relevant devolved bodies.

I understand that these amendments all seek to ensure that the board has adequate representation to meet its objectives. I reassure the Committee that non-executive directors are recruited in line with the guidelines set out by the Office of the Commissioner for Public Appointments and were selected based on the skills that they could bring to the board around UKIB's mandate and objectives. I understand why the noble Lord, Lord Tunnicliffe, is minded to have a non-executive representative of workers, as set out in Amendment 48, but I hope that he will see with the appointments to date and the process that appointments must go through that this is not necessary.

The Government are committed to ensuring that the bank delivers for all four nations, and the Treasury has engaged with the devolved Administrations throughout the set-up of the bank, and will continue to do so to ensure that the bank delivers for all nations of the UK.

Lord Thomas of Cwmgiedd (CB): I think that the Minister mentioned the appointment of someone with knowledge of Scotland, but what about Wales and Northern Ireland? Is the Treasury taking active steps to do something about representation on the board from someone with detailed knowledge of Northern Ireland and Wales?

Baroness Penn (Con): My Lords, I believe that there are a number of different routes by which the bank can ensure that it works closely with the devolved Administrations.

Lord Thomas of Cwmgiedd (CB): The reason why I asked the question was to do with public confidence from Northern Ireland, Wales and Scotland. That is critical at this stage of keeping the union together. I know that the Minister, who is very helpful on this Bill, may not be able to answer that tonight, but I shall return to this issue with detailed questions on Report, or press an amendment.

Baroness Penn (Con): I understand the noble and learned Lord's point, and recognise that I have been given notice that he will return to it at Report. All I was simply going to say was that I understand the point about confidence, which can be achieved in a number of different ways. His amendments suggest one of those, and I was seeking to describe some of the other ways in which UKIB has approached this in collaboration with the devolved Administrations and will continue to do so. I just note that we are seeking legislative consent for relevant aspects of this Bill.

9.45 pm

Lord Vaux of Harrowden (CB): Given that this consultation has been happening with the devolved nations, can the Minister give us some flavour of how that has gone and what the reaction from the devolved nations has been?

Baroness Penn (Con): My understanding is that it has been very constructive, but perhaps I can write to noble Lords setting out further detail on that.

Amendment 49 in the name of the noble Baroness, Lady Kramer, would ensure that the bank's chair must keep the board under review to ensure that it continues to perform adequately. I think it goes without saying that I agree with the policy of this, but again believe that it is set out sufficiently within the framework document which largely reflects the requirements of the corporate governance code, against which the bank, as I said before, will publicly report compliance each year. It covers most of these points adequately, particularly in paragraphs 5.5.2 and 5.9.5.

I have committed to write on a number of aspects and know that noble Lords have given notice that they may wish to return to this at Report. With that, I hope that the noble Baroness will be able to withdraw her amendment for now.

Baroness Kramer (LD): I thank the Minister for her comments. I am slightly alarmed by two things, the first of which is that she sees no reason why the chair should have influence over the shape of the board, so that it should be the responsibility solely of the Treasury and the Government. That troubles me, particularly in the much wider context of operational independence and so many of the other issues we discussed earlier today.

I am very sympathetic to the issues raised by the noble Lord, Lord Vaux, and the noble and learned Lord, Lord Thomas. I think that the noble and learned Lord is exactly right: this is an issue of confidence. I am somewhat surprised that we do not have legislative consent yet, even though we are already in Committee. I wonder if the Minister expects that we will have legislative consent before we get to Report. I have not dealt with many Bills, but legislative consent has always come very early in the process and not at this point in time. I am slightly concerned about that.

Baroness Penn (Con): Perhaps I can pick that up in the letter. As this is a Lords starter, I believe we might have more time to deliver on legislative consent than when we receive Bills from the Commons—that may be the timetable.

Baroness Kramer (LD): The Minister makes a good point; I am used to thinking of legislation that starts in the Commons, and therefore legislative consent is in place by the time it gets to the Lords. I hope that this can be very quickly resolved.

Apparently, on the issue of non-executive directors, we have found another item within the framework that we want to consider putting in the Bill. It would be interesting to see that as we get to Report. For now, I am content to withdraw the amendment.

Amendment 43 withdrawn.

Amendments 44 to 50 not moved.

Clause 7 agreed.

Amendment 51 not moved.

Clause 8: Duties of the Bank etc

Amendment 52 not moved.

Clause 8 agreed.

Amendment 53 not moved.

Clause 9: Reviews of the Bank's effectiveness and impact

Amendment 54

Moved by ***Baroness Noakes***

54: Clause 9, page 4, line 2, after "must" insert "appoint a person or persons to"

Baroness Noakes (Con): My Lords, we are in the final lap of Committee. I shall speak also to the three other amendments in this group in my name. Amendments 54 and 58 deal with who should carry out the periodic review of the UK Infrastructure Bank under Clause 9. Clause 9 says that the Treasury must carry out the review, and my two amendments change this to "a person or persons" who are independent of both the Treasury and the bank. At Second Reading, I spoke about how the Treasury was intertwined with the UK Infrastructure Bank and in effect calls all the shots. We have covered that ground again today and I will not repeat any of that now, but all that adds up to a fact of life: that the Treasury is very closely involved in the bank and is not and cannot be a dispassionate observer when it comes to appraising how well the bank has done. The Treasury should not, as I think the noble Lord, Lord Vaux, said earlier, be marking its own homework.

In my view, it is only right that an independent person should be appointed to appraise the effectiveness and impact of the bank. Indeed, it may well be that the effectiveness or impact of the bank has been helped or hindered by the Treasury, and we certainly want to know about that. That would not emerge if the review were carried out by the Treasury. The noble Lord, Lord Teverson, has a more elaborate version of independent review in his Amendment 63, and I look forward to hearing what he has to say on it, but I wonder whether an annual report on performance is getting a bit too much like micro-oversight of the UK Infrastructure Bank.

Turning to Amendments 59 and 62, which address the timing of the Clause 9 reviews, I am grateful for the support of the noble Lord, Lord Vaux of Harrowden, and the noble Baroness, Lady Kramer, respectively, in respect of these amendments. Under Clause 9, the Treasury has up to 10 years to produce its first report and then has to produce reports at not more than seven-year intervals after that. My amendment calls for a first report within four years and Amendment 62 calls for subsequent reports at least every three years. I chose four years as the first period, rather than the three years called for by Amendment 60 in the name of the noble Baroness, Lady Kramer, because I thought that a report after three years of operation would be sensible and would allow a bit of time beyond the three years to actually make the report. But there is no magic in either three or four years: the main point is that 10 years followed by seven years is far too long. I beg to move.

Lord Teverson (LD): My Lords, when the Green Investment Bank was privatised and we dealt with legislation to do that, we in this House looked at ways in which we could be sure that, with that change of ownership, whatever it would be, it remained true to its constitution, its values and objectives in that private situation. It was subsequently bought by Macquarie, which still owns the Green Investment Bank, now called the Green Investment Group. The Government at the time—I remember going through this with the noble Baroness, Lady Neville-Rolfe—were enlightened enough to set up a green share held by a non-profit organisation called the Green Purposes Company, of which I am a trustee, and therefore I declare my interest in that.

I take the noble Baroness's point that my amendment is slightly more complicated and maybe slightly more micro, but it is there for a different reason. That company was set up in a similar way to the way described in this amendment, and what we do in the Green Purposes Company is certainly not to act in any way prior to investment—we are not part of any investment committee; we do not get involved in that. What we do, at the end of a year, is to assess whether those investments that have been made by what is now the Green Investment Group comply with its green objectives and the mission of the bank.

With the co-operation of Macquarie, that process has worked very well. As I said, we assess performance against the bank's objectives and have four meetings a year with senior management—they are optional; we just decided to do that operationally—and then publish a letter in the annual report of the bank, making that assessment of the investment in general. It is a fairly short letter, but it provides total transparency and a completely independent view of whether the bank has met those objectives through its investments during the year.

Having agreed to and implemented this model, we have talked to Treasury officials about it in the past—it has been considered and, I think, welcomed by the Environmental Audit Committee at the other end—and to the Finance Minister John Glen. It is a successful assessment method; it is transparent, tried and tested and is a model laid down by the Government themselves. This is a really good way forward and I would very much like the Minister to consider it as a way that we can make sure there is independent, regular assessment, post investment, of how the bank is performing without getting into too much of the micro area in the report. I agree that, if that was too much part of the reporting structure, it could be onerous and reduce transparency.

Lord Vaux of Harrowden (CB): My Lords, like I think almost every noble Lord who spoke at Second Reading, I agree that the reporting schedule set out in the Bill is completely unacceptable. In fact, I think it was possibly the only point in the entire Bill on which there was absolute unanimity. Ten years before the first report and then only every seven years thereafter is just too long. I wonder if even the Minister was surprised at the times when she saw the Bill.

I have added my name to Amendment 59, in the name of the noble Baroness, Lady Noakes, which suggests four years before the first report. I understand her point about having three years plus time to get that first report out, and it therefore makes sense that the first one has a bit longer. Others have suggested three years. I cannot too excited about it, to be honest. Ten years and seven years are too long. We need to bring that down.

As I and the noble Baroness mentioned earlier, it is quite inappropriate that the Treasury should be marking its own homework in this respect, so I support her amendments ensuring that the effectiveness reporting is independent.

Baroness Kramer (LD): My Lords, I will speak very briefly. A couple of the amendments are in my name and I have signed others. I absolutely join the noble Baroness, Lady Noakes, and the noble Lord, Lord Vaux, on whether it is three years or four years. It seems to me that the proposal of the noble Baroness is rather sensible, as three years will have gone by, as she pointed out, before the first report. What are completely unacceptable are the 10-year and seven-year benchmarks. The Minister has heard the arguments over and over. I know she will say that there are many other ways in which we will know what is going on. We will partially, but not in a coherent or holistic way. That is why it is so important that these kinds of holistic reviews should be done properly, appropriately and in a timely fashion.

I stress my support for the points made by the noble Baroness, Lady Noakes, and my noble friend Lord Teverson on their somewhat different proposals for an independent reviewer. Otherwise, the Treasury will be marking its own homework. We have established throughout every part of today's debate that it can change the objectives through secondary legislation and it sets the strategic priorities. It can provide detailed direction and appoints every member of the board. It is very hard to see any way in which the Treasury's hand will not have imprinted every aspect of what this bank does.

10 pm

I can tell noble Lords now that the Treasury will produce an absolutely glowing report after 10 years; we do not even have to wait for it. The Treasury will look at what it has done and praise itself. Frankly, it is not at all appropriate to call that a review. That is a self-reporting system; it is not an independent review. I believe that a review is what is required, and independence lies at the heart of that.

Lord Tunnicliffe (Lab): My Lords, yet again, I have to concede that I agree with the noble Baroness, Lady Noakes, on Amendments 54 and 58. I will not labour that further.

The bank could, in time, play a significant role in our fight against climate change, and we very much hope that it will. Given the urgency of the green transition and the Government's stated commitment to levelling up, carrying out the first review of the bank after 10 years makes no sense. I was pleased to sign Amendment 60, which would bring this forward to three years. However, let me be clear that, like a number of other noble Lords, I am not wedded to any particular number. The noble Baroness, Lady Noakes, may win the day with four years, or we may settle for something else entirely. What has been clear from this short debate is that the current decade is simply not acceptable. There are also some differences of opinion on frequency. Once again, I do not think it matters exactly where it ends up, if, in the end, the result is that we see these documents more frequently than currently envisaged.

Lord Teverson (LD): Could I just ask the Minister one thing before she replies? Ten years is just ridiculous, so is this the one thing where the Government will say, "Right, we've listened to the House and we'll make it three years. Look, guys, we've done the deal", and then the Bill goes down to the other end? Is that the plot?

Lord Tunnicliffe (Lab): That is what my original notes envisaged, but I simply could not believe that they are that clever.

Baroness Penn (Con): My Lords, I hope noble Lords will forgive me if I do not give the game away too far ahead of Report in terms of our approach to listening to all the points raised in Committee.

As we have heard, these amendments all relate to the review clause in the Bill. I understand entirely the aim behind the amendments of ensuring that the bank is appropriately scrutinised and in a timely way, but I can hope valiantly that I can reassure noble Lords both that there will not be a 10-year period before the bank is given scrutiny and by perhaps explaining to them why the 10-year period was selected.

As I have mentioned previously, we have committed in the bank's policy design document to review the bank's progress and financial performance by spring 2024 to ensure that it has sufficient capital to deliver its ambitions and, as we noted earlier, also on our regulatory approach to the bank. On top of this, we have a Cabinet Office-led review in 2024-25 on the effectiveness of arm's-length bodies generally, and as part of this process we will conduct a review of the bank, which will be repeated in 2027-28 and 2030-31.

Baroness Kramer (LD): Just for clarification, will the Treasury review the bank in that 2024 piece of work? Will it be reviewing itself?

Baroness Penn (Con): My notes say that it will be a Cabinet Office-led review, but as part of that process we—which I would take to mean the Treasury—will conduct the review. If that is incorrect, I will clarify that.

Taken together, this means that the bank will have been subject to four reviews by the time of our first statutory review. The review in statute is designed to encompass all the elements of the previous reviews and has been chosen to be 10 years after Royal Assent because it allows for a fuller analysis—

Lord Vaux of Harrowden (CB): Will these Treasury reviews be published?

Baroness Penn (Con): I will be happy to go away and check on that point. I think that the intention is that they would be, but I will double-check.

The period of 10 years has been chosen to allow for a fuller analysis of the infrastructure funding that the bank has undertaken and to see the real impact of its investment in the context of delivering against the missions set out in the levelling-up White Paper and the progress towards the Government's net-zero target.

I will note one further point. As I confirmed at Second Reading to my noble friend Lady Noakes, UKIB will be subject to external audit by the National Audit Office, including on an annual basis as part of the statutory powers of the Comptroller and Auditor-General.

Amendment 63, in the name of the noble Lord, Lord Teverson, seeks to mirror the arrangements of the Green Investment Bank by having a company shadow the bank to ensure that it is meeting its objectives. He is clearly knowledgeable on this subject as he sits on the board of the Green Purposes Company. However, he will note that the Green Investment Bank did not need this function when it was part of government because there were already other routes of accountability, including directly to Parliament in relation to the bank's use of public money.

This legislation sets out quite clearly the objectives of the bank so, if there is any deviation from that, the Government can compel it to change its course or there will be a challenge in the courts. Further to this, Ministers are accountable to Parliament on the performance of the bank, so I dare say the noble Lord would provide adequate challenge should he think that the bank was not performing against its objectives.

To tidy things up, my noble friend Lady Noakes asked a question on the bank appearing before Lords committees. There is no barrier to that. Indeed, the CEO and the chair of the bank were before the Economic Affairs Committee on 17 May as part of an energy supply session.

I hope that, in laying out those reasonings from the Government at this stage, my noble friend will feel able to withdraw her amendment and that other noble Lords will not move theirs when they are reached.

Baroness Noakes (Con): My Lords, I expect that my noble friend the Minister knows that she is batting on a rather sticky wicket. While she has valiantly sought to explain her reasonings, I think I can probably speak for the rest of the Committee when I say that we are not wholly convinced by them. I can see no particular point in detaining noble Lords in this Committee much longer other than to say that we have to record that clearly both the independence and the time period of the review are areas that we will need to return to on Report if we do not satisfactorily deal with them before we get to that stage. With that, I beg leave to withdraw the amendment.

Amendment 54 withdrawn.

Amendments 55 to 63 not moved.

Clause 9 agreed.

Amendments 64 to 68 not moved.

Clauses 10 and 11 agreed.

House resumed.

Bill reported without amendments.

House adjourned at 10.10 pm.