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PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS
OFFICIAL REPORT

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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
UUP	Ulster Unionist Party

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

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5 December 2022

THE

PARLIAMENTARY DEBATES

(HANSARD)

IN THE THIRD SESSION OF THE FIFTY EIGHTH PARLIAMENT OF THE
UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND
COMMENCING ON THE SEVENTEENTH DAY OF DECEMBER IN THE
THIRD YEAR OF THE REIGN OF

HER LATE MAJESTY QUEEN ELIZABETH II

FIFTH SERIES **VOLUME DCCCXXVI**

FIFTH VOLUME OF SESSION 2022-23

House of Lords

Monday 5 December 2022

2.30 pm

Prayers—read by the Lord Bishop of Carlisle.

Introduction: Baroness Moyo

2.39 pm

Dambisa Felicia Moyo, having been created Baroness Moyo, of Knightsbridge in the City of Westminster, was introduced and took the oath, supported by Baroness Manningham-Buller and Lord Reay, and signed an undertaking to abide by the Code of Conduct.

Introduction: Baroness Lampard

2.45 pm

Kathryn Felice Lampard, CBE, having been created Baroness Lampard, of Frinsted in the County of Kent, was introduced and took the oath, supported by Lord Inglewood and Lord Trevethin and Oaksey, and signed an undertaking to abide by the Code of Conduct.

Oaths and Affirmations

2.49 pm

Lord Choudrey took the oath.

Ethiopia: Peace Process
Question

2.50 pm

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

To ask His Majesty's Government what assessment they have made of the peace process in Ethiopia; and what representations they plan to make to the government of Ethiopia about the cessation of hostilities agreement that requires the withdrawal of all foreign forces and the concurrent disarmament of Tigrayan forces.

Lord Browne of Ladyton (Lab): My Lords, I beg leave to ask the Question standing in my name on the Order Paper.

Baroness Chakrabarti (Lab): Hear, hear!

The Minister of State, Foreign, Commonwealth and Development Office (Lord Ahmad of Wimbledon) (Con): My Lords, it is good to hear the noble Baroness in such good voice. We welcome the peace agreement between the Ethiopian Government and the Tigray People's Liberation Front to end the conflict in northern Ethiopia. The agreement makes provision for an AU-chaired committee to monitor and verify its implementation. We are ready to provide support towards implementation of the agreement and have communicated this offer to the African Union and the Ethiopian Government. We have also called on the Eritrean Government to support the agreement by withdrawing their troops from Ethiopia.

Lord Browne of Ladyton (Lab): My Lords, on Friday, the Associated Press reported that Eritrean forces are continuing their killings of civilians in the Tigray region, and according to the *Washington Post* yesterday, "Ethiopian guards massacred scores of Tigrayan prisoners." On 17 November, before the House of Commons Foreign Affairs Committee, US Assistant Secretary of State for African Affairs Phee committed to further sanctions on Eritrea if it does not throw its troops out, and to neither restoration of the US African Growth and Opportunity Act nor support for international loans for Ethiopia until unrestricted humanitarian aid enters Tigray and civilian detainees are released. Is the Minister able to make similar commitments today for His Majesty's Government?

Lord Ahmad of Wimbledon (Con): My Lords, the noble Lord will know that I cannot give any specifics or details of sanctions; however, sanctions are part and parcel of the tools we have at our disposal. As I said in my original Answer, we wish, want and have asked the Eritreans to withdraw immediately; we will continue to do so repeatedly by working with the AU and the UN. They are an impediment to the peace process and, as we have seen from the noble Lord's supplementary question, the continued violence being perpetrated is inexcusable. If there is more information to share in future, we will do so at the appropriate time.

Baroness Northover (LD): My Lords, as the Minister attended the Preventing Sexual Violence in Conflict Initiative conference last week, could he tell us what reports are coming through on the use of rape as a weapon of war in Tigray and whether people will be held to account? Is evidence being gathered, which is necessary if perpetrators are to be held to account?

Lord Ahmad of Wimbledon (Con): My Lords, of course I can assure the noble Baroness that we are working with key agencies, including the UN. This was a specific area that I also discussed with SRSG Patten, who heads the UN team. We have previously dispatched experts to collect evidence. On specific actions, part of the conference was about ensuring that we collate and sustain evidence so that we can successfully prosecute as and when those opportunities arise.

Lord Boateng (Lab): My Lords, the Minister knows the region well, as I know that his right honourable friend the Minister for Overseas Development does, and he will therefore appreciate that wishing, wanting and asking for peace in that region is simply not going to be enough. As he has recognised and referred to, an African Union committee is charged with monitoring the process. The African Union is notoriously underresourced; its partner is the Intergovernmental Authority on Development. Will the Minister undertake to refer to that body and ask what practical assistance, by way of material resources, it needs to undertake its very difficult task?

Lord Ahmad of Wimbledon (Con): My Lords, equally, I know that the noble Lord has detailed insight of this area and particularly this conflict. As he and I discussed only a couple of weeks ago in a very—as ever—informed debate in your Lordships' House, there is great hope for Ethiopia. Of course, however, I take on board his practical suggestion and I assure him that, at the highest level, we will look to engage. It is not just about Eritrean forces withdrawing; they need to withdraw now.

Baroness Jones of Moulsecoomb (GP): My Lords, this conflict has been going on for two years. In that time, thousands have been killed and raped, people have lost their homes and livelihoods, and they are starving. Now the World Health Organization says that it does not have access to all areas in Tigray. What are the UK Government doing about that?

Lord Ahmad of Wimbledon (Con): My Lords, we helped to negotiate and regain access to humanitarian corridors to various parts of the region, including parts of Tigray. However, the noble Baroness is correct: not all areas are accessible, even by UN agencies. We have been successful, and the United Kingdom has played a key part in providing humanitarian support, including specific support for those who have been impacted by gender-based violence, for those requiring specific nutrition and health support, and for water and sanitation. We are a key part of that effort, together with the United Nations.

Lord Collins of Highbury (Lab): My Lords, may I just probe a little more the issue raised by the noble Baroness, Lady Northover? At the conference, on which I congratulate the Minister, it was made clear that preventing sexual violence requires people knowing that they cannot act with impunity. That means making sure that we have the means to hold them properly to account. Gathering the evidence is one thing, but what are we doing to support the Ethiopian authorities to ensure that those people are held to account on all sides for the crimes they have committed? Are we giving them practical support?

Lord Ahmad of Wimbledon (Con): Yes, we are. However, I do not want to deny for a moment that the challenges are immense. We have just seen a very fragile peace agreement being reached; we need to ensure that it is sustained and strengthened, and that those who committed these crimes are held fully to account. As the noble Lord will know, we made an additional commitment of £12.5 million; part of that money will be allocated to national mechanisms in conflict-related areas, where we can help to build national accountability mechanisms and support the training of judges and prosecutors.

Baroness Sugg (Con): My Lords, further to my noble friend's comments on the dire humanitarian situation, I say that we believe there to be around 13 million people who now need humanitarian assistance because of the hostilities. Can he update me on any progress that has been made on humanitarian access since the ceasefire?

Lord Ahmad of Wimbledon (Con): My Lords, we are providing additional access. As my noble friend will be aware, in the last 18 months alone, we have allocated nearly £90 million to support efforts, including humanitarian efforts. Existing supply routes continue to operate, but we are working with partners such as UNICEF and, in particular, the WFP. Over the last 18 months, it has provided supplementary feeding, for example, to 115,000 malnourished mothers and children in northern Ethiopia, and to 226,000 people in drought-affected communities in southern Ethiopia. When we see the scale of the humanitarian suffering, however, we see that there is so much still to be done.

Lord Anderson of Swansea (Lab): My Lords, the conflict is one of famine and atrocities on both sides. What confidence does the Minister have that the laying-down of arms will not lead to the settling of scores against the people of Tigray?

Lord Ahmad of Wimbledon (Con): My Lords, in any conflict resolution, what is required is reconciliation. We need to focus on that. This is a very vulnerable ceasefire at the moment. We have seen hard negotiations and I pay tribute to, among others, former Kenyan President Kenyatta and former Nigerian President Obasanjo, who were central to ensuring that this agreement was reached. However, sustaining it is going to be equally difficult, and that is why, in reply to the noble Lord, Lord Boateng, I said that it is important that countries like the UK and other international partners support regional efforts to ensure that the peace agreement that has been negotiated can be sustained and strengthened.

Lord Kamall (Con): My Lords, my noble friend the Minister has referred to the United Nations, the African Union and a number of other international organisations. Can he enlighten the House as to which other international organisations the Government are working with in trying to get to the heart of this problem?

Lord Ahmad of Wimbledon (Con): My Lords, we need to focus on practical solutions, which is why, even with the United Nations, we have focused on supporting the African Union's efforts. There could be a multitude of organisations working on the ground, but we need a focused peace. We are working with various other international agencies: UNICEF, the WFP, the Ethiopia Humanitarian Fund, the ICRC, the World Health Organization, the IOM, UNHCR—the list continues. It is important that we have a co-ordinated effort, which is best done by regional partners—namely, the African Union. Oh! I am working with musical accompaniment as well now.

Lord Dobbs (Con): My Lords, I apologise for that interruption by my phone. I never cease to be encouraged by the ambition of Members of this House to have an impact in parts of the world where, frankly, we have very little political clout. We give very substantial amounts of money, as my noble friend the Minister has just outlined; what measures are we able to take to ensure that that great deal of aid money is in fact spent on the causes that we intend it to be, rather than siphoned off and spent, as I fear too much aid is, by people in whose pockets we would simply not wish to find that money?

Lord Ahmad of Wimbledon (Con): My noble friend raises an important point, not just in the context of Ethiopia but everywhere where British taxpayers' money is spent. It is important that the Government stand accountable for ensuring that money is spent on the intention for which it has been given. That is why I sought to provide specific answers on some of the programmes. I have already given one or two examples; I mentioned the ICRC, for which our funding of £4 million has helped in the treatment of 17,700 wounded people and 116,000 other patients. There are other specific numbers that I can provide to my noble friend. It is important because, undoubtedly, anywhere that humanitarian support is provided, there is a need for local accountability mechanisms and a full audit of how money is spent to ensure that those who are most vulnerable and in need get the money and support that they require.

Initial Teacher Training Providers

Question

3.02 pm

Asked by ***Lord Watson of Invergowrie***

To ask His Majesty's Government, further to the *Initial teacher training (ITT) market review*, published on 29 September, what percentage of initial teacher training providers have not received accreditation to enable them to continue offering training courses from 2024; and what assessment they have made of the effect this will have on ensuring all regions of the country are able to offer such courses.

The Parliamentary Under-Secretary of State, Department for Education (Baroness Barran) (Con): My Lords, adopting the recommendations from the *Initial Teacher Training Market Review* and subsequently undertaking the accreditation process to ensure that only the high-quality providers remain in the ITT market is key to achieving this Government's aim of an excellent teacher for every child. One hundred and seventy-nine providers have been accredited to deliver ITT from 2024, covering every region in the country. We are supporting the sector to develop partnerships and expand provision to meet trainee demand in all areas.

Lord Watson of Invergowrie (Lab): My Lords, despite the fact that there was no evidence that the quality of initial teacher education had a connection to the failure to reach recruitment targets, two years ago the Government introduced the review to which the Minister referred for a complete overhaul of the system. Every existing provider was forced to apply for reaccreditation, and many were unsuccessful. Despite what the Minister has just said, in Cumbria, for instance, there is no ITT provider remaining, and in other areas such as Yorkshire and the Tees Valley, there are very few—so much for levelling up. Last week, the DfE announced that it had again failed to reach its targets for primary and secondary school teacher trainee applicants—by 40% in secondary. Can the Minister say how, in those circumstances, the Government can justify cutting the number of ITT providers?

Baroness Barran (Con): The Government are focused on ensuring that there is the right capacity in the market. The noble Lord is right that not all existing providers have been successful, but the Government are working with them to make sure that they can work in partnership with accredited providers to make sure that we have capacity all across the country.

The Earl of Clancarty (CB): My Lords, on top of the serious concerns that the noble Lord, Lord Watson, has raised, we now have a shortage of teachers in many subjects. Does the Minister agree that we should introduce bursaries for all subjects not reaching their recruitment targets? We need the teachers as well as the courses.

Baroness Barran (Con): The Government take bursaries very seriously and we review bursaries each year. Amounts granted in 2021-22 took account of the extraordinary circumstances of Covid, but we are increasing bursaries in 2022-23 and in 2023-24 similar to the levels offered pre-pandemic.

Lord Addington (LD): My Lords, if we have a problem with training people for initial teacher training then the review of special educational needs will put extra pressure on them, because they will have to be able to deal with problems that historically they are regarded as being underprepared for. What will be the result of the review?

Baroness Barran (Con): I cannot prejudge, but it is only a few weeks away that we will be able to discuss the results of the review. Clearly the Government initiated the review because they take seriously issues for children with special educational needs and disabilities.

Lord Lexden (Con): To what do the Government attribute their inability to meet teacher training targets? Could school-based training play a larger role?

Baroness Barran (Con): My noble friend asks an important question. There is no single reason why the recruitment market is so challenging, but clearly there is a very competitive labour market. Historically, teaching has not offered the same flexibility that is now offered post-pandemic for many graduate jobs. School-based teacher training will play an extremely important part and we continue to promote the role of a teacher, with its incredibly important contribution to our children and our economy, as hard as we can.

Baroness Chapman of Darlington (Lab): My Lords, data released by the DfE just last week showed that in the 2022-23 academic year there were just 444 trainee physics teachers across the whole of England. Some 400 schools in England do not have a teacher for physics A-level. The next generation of English scientists is being failed and it is catastrophic for our international competitiveness. Specifically on physics, how will the Government address this?

Baroness Barran (Con): The noble Baroness is right that physics is the most challenging subject for recruitment, but I know that she would also acknowledge that mathematics, chemistry and other important STEM subjects see much more encouraging results. We are implementing specific measures for physics, including the cunningly named Engineers Teach Physics programme, which has now been extended to all ITT providers from this academic year following the pilot scheme.

Baroness Donaghy (Lab): The Minister will know that I have always felt that the reaccreditation exercise was wasteful and badly timed. I cannot help thinking that a 40% shortage in secondary school ITT places is as near a crisis as we are going to get without the Government acknowledging it. New national providers are untested and there is no guarantee that they will be able to recruit. What does the Minister think will happen if some of those that appealed against being turned down for accreditation are accepted? Will the Government bear in mind the areas that are not yet covered, which my noble friend Lord Watson mentioned?

Baroness Barran (Con): I obviously cannot comment on those providers that are currently appealing if they did not receive reaccreditation. There are some very strong providers among the new ones—the National Institute of Teaching and the Ambition Institute, among others—but as I mentioned in reply to an earlier question, we are focusing very much on building partnerships with those that have received accreditation and those that were unsuccessful.

Lord Boateng (Lab): My Lords, I declare my interest as chancellor of the University of Greenwich. Does the Minister recognise that there are very many real concerns among universities that have been teaching and training teachers for many years about this whole process and its inadequacies? When the appeal process is completed, will she meet with a delegation of vice-chancellors and chancellors to discuss the learnings from this exercise?

Baroness Barran (Con): I hear the noble Lord's concerns. We believe that the accreditation process was thorough and fair, but I would be delighted to meet the group, as he suggests.

Lord Naseby (Con): Can my noble friend clarify whether accreditation is still taking place, or just on appeal? If it is just on appeal, what help is her department giving to those organisations to make sure they come up to standard? Presumably, they have been working for years in this subject area.

Baroness Barran (Con): If I understood my noble friend's question correctly, I can tell him that there has been a reaccreditation of all providers in the field. Some providers chose not to apply to be reaccredited, some new providers applied, and the majority of both university and school-based providers were successful—80% of universities and 83% of school-based providers. We have been looking at supporting those successful organisations to work, where appropriate, with those that were not successful, to make sure that we can build those partnerships and ensure we have the capacity we need.

Lord Storey (LD): With those accreditors that lost their accreditation, we are obviously going to lose their skills and subject knowledge. How can we use that effectively? Can the Minister assure us that, in certain shortage subjects—we mentioned physics—accreditors that have been the pipe stream providing those teachers are not ones that have lost their accreditation?

Baroness Barran (Con): I really am sympathetic to the issues that the noble Lord raises, but our principal focus is on the quality of initial teacher training, and then of course on the whole early career framework,

to support teachers in the golden thread of support and training that the noble Lord has heard me talk about many times. That is our number one focus, and we will of course make sure that there is sufficient capacity and that those skills are used in the partnerships that I have already outlined.

Baroness Blower (Lab): My Lords, does the Minister agree that, although there may be a place for school-based training, the fact is that all schools are under tremendous pressure of resources, and that training teachers should strictly be the role of university schools of education rather than our schools?

Baroness Barran (Con): I am afraid I cannot agree with the noble Baroness, try as I might. The evidence is clear, from listening to teachers, that practical experience in the classroom is extremely valuable and that the school-based route is extremely popular and effective.

Children in Care: CAMHS Waiting Times

Question

3.12 pm

Asked by ***The Lord Bishop of Southwell and Nottingham***

To ask His Majesty's Government what assessment they have made of the length of the waiting times for children and young people in care who need to access the support of Children's Adolescent Mental Health Services; and what steps they are taking to reduce those waiting times.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Markham) (Con): We do not have a national waiting time standard for these services, so this data is not available. However, increasing access to these services is a priority. We are expanding mental health services through the NHS long-term plan. Funding for mental health services will increase by at least £2.3 billion a year by 2023-24 so that an additional 345,000 children and young people, including those in care, can access NHS-funded mental health support.

The Lord Bishop of Southwell and Nottingham: I thank the Minister for his Answer and declare an interest as a foster carer of more than 10 years. In my diocese, in Nottingham city and Nottinghamshire, 1,040 children and young people waited more than 12 weeks between referral and second contact last year. Surely, those delays are unacceptable. Does he agree with the president of the Association of Directors of Children's Services, Steve Crocker, that His Majesty's Government need urgently to undertake a full review of children's mental health services to ensure they are able to meet the growing demand we have seen placed on them, especially for looked-after children, who are four times more likely to experience mental health issues than their peers?

Lord Markham (Con): I have some personal experience in this area, so I agree that we need to see people as quickly as possible. On the investigation, we have recently undertaken a call for evidence, which closed in July with 5,000 responses that we are going through. I think that our response to that will answer many of the questions, but I would be happy to meet the right reverend Prelate and discuss this further when we have those results.

Baroness Tyler of Enfield (LD): My Lords, the Select Committee looking at the Children and Families Act 2014, which I have had the honour to chair, is publishing its report tomorrow, and the frankly dire state of children's mental health services runs through it like a stick of rock. Our inquiry received harrowing evidence of waiting times of up to two years for children already in crisis; specifically, we heard that there are very long waiting lists for post-adoption trauma support. What are the Government doing to improve mental health support for this particular group of children?

Lord Markham (Con): I will need to write to the noble Baroness to give a specific response in that case. It is an area of concern where I think we are increasing awareness, and any diagnosis needs to start with awareness. By definition, that means that more people are diagnosed or come forward, which is a good thing, but it then means that often it takes longer to see those people—I do not say that as any sort of excuse but just as an explanation. As we increase our understanding in this area, and I think that we would all agree that over the last 10 to 15 years there has been a huge increase in understanding, that means that more people are coming forward, but it means also that we need up our game in terms of supporting them.

Lord Laming (CB): My Lords, following the noble Baroness's question, the Minister will well understand that children do not come into care for trivial reasons; most of them have had a very poor and traumatic start to their young lives. The state has taken on the responsibility to be a good parent to those children. Would it be possible for them to be given priority in the waiting lists for these essential mental health services?

Lord Markham (Con): I would agree. In any case, especially where there is high demand in an area, we need a form of triaging so that we can agree the clearest areas of priority, such as those mentioned.

Lord Porter of Spalding (Con): My Lords, my noble friend has quite rightly mentioned the amount of money that the current Government are finding to attach to this issue, and predecessors of his at the Dispatch Box would have all said similar things. The country is investing billions of pounds in children's mental health, quite rightly—that has a huge effect on people's lives, and it also has a huge knock-on cost to other parts of the Government's spend if it is not done properly. What assurance can my noble friend give to the House that those billions of pounds are being spent properly on the services they are being given for, and are not being used to subsidise bad management decisions such as PFI contracts?

Lord Markham (Con): I thank my noble friend. As ever, we need to make sure that every pound is well spent. These services come under the regulatory and inspection regime of the CQC. Also important in this space—probably most important of all—is understanding and getting early intervention, which means having more people in schools who understand and can help assess and identify some of those children early on. That is why the programme to intervene in schools and develop a senior mental lead is critical. Half of all secondary schools are taking that up right now. Half is not all, so there is more work to be done, but it is good progress.

Lord Ponsonby of Shulbrede (Lab): My Lords, the Minister may be aware that all young people who get sentences from youth courts get CAMHS assessments, which is a good thing. However, does he think that young people who have out-of-court disposals through YOTs should also get CAMHS assessments, because a very high proportion of them would have mental health needs?

Lord Markham (Con): Generally, we need to try to assess as many people as we can. I remember in my school there was a child in our class who we just thought was naughty and got into all sorts of trouble, but now, having had my own personal experience later on, I know that he had an autistic spectrum disorder. Clearly, he needed help and he was not assessed, so, as a statement, I agree that we need to increase assessment as much as we can for all these cases.

Lord Hunt of Kings Heath (Lab): My Lords, the Minister has mentioned the provision of services in schools, which is very welcome, but does he accept that thousands of young people are now being home educated? Will he ensure that there is parallel support for those children in terms of mental health provision?

Lord Markham (Con): I agree. Arguably, if you are being home schooled, you probably need a lot of help. As the noble Lord will be aware, a lot of the services are related to social prescribing, where often people with mental disorders can be helped by involving them more in community activities. Clearly, those who are home schooled are much more likely to be isolated.

Baroness Altmann (Con): My Lords, I congratulate my noble friend on his previous answer about triaging so that those in care can get urgent mental health support. Does he have any targets in mind as to the proportion of children in care with mental health needs who could be seen within, let us say, six months rather than the current waiting time of up to two years?

Lord Markham (Con): I thank my noble friend. The NHS has recently set out a national framework for the practical pathways that it expects ICBs to follow in terms of getting diagnoses. To be very open with my noble friend, given demand, setting targets in this space is probably not the wisest thing to do, but we understand that we need to get on top of this.

Lord Stirrup (CB): My Lords, clinical staff are at crisis point throughout the NHS. What contribution are staffing levels in this area making to current waiting lists, and what is being done to address it?

Lord Markham (Con): I do not know what contribution it is making to waiting lists. However, I do know that the long-awaited workforce plan—which noble Lords opposite have quite rightly asked me about many times, and I am very glad to say we are now producing it—will include these types of people as well, because they are clearly a very important component of the workforce that we need.

Baroness Merron (Lab): My Lords, care-experienced children and young people are disproportionately affected not only by mental ill-health but by barriers to getting support. Bearing in mind that this group of young people often experience multiple placement moves, which are often far away from home, can the Minister say what work is going on to ensure that services are designed around this specific requirement?

Lord Markham (Con): I thank the noble Baroness. As noble Lords are aware, we think that in-patient care should happen only in the most extreme and serious cases. It is much better to have care in the community and local support around that. That is very much where we are coming from. The response to the independent review of children's social care, which the DfE is leading, will be published in the new year, and I would be happy to update the noble Baroness when we have those findings.

Sustainable Farming Incentive Grants

Question

3.23 pm

Asked by ***Baroness Jones of Whitchurch***

To ask His Majesty's Government what steps they are taking to increase applications for the Sustainable Farming Initiative grants from farmers.

The Minister of State, Department for Environment, Food and Rural Affairs (Lord Benyon) (Con): My Lords, I declare my farming interests as set out in the register. This June, we opened applications for the sustainable farming incentive, the first of our environmental land management schemes. Though it is early days, we have already seen positive interest. The scheme is being introduced incrementally, and the full offer will be in place by 2025. As the SFI offer is expanded, uptake is expected to accelerate. We are continuing to promote the scheme through our various communications channels to raise awareness of its benefits and to build interest.

Baroness Jones of Whitchurch (Lab): My Lords, the sad fact is that this scheme, which was the bedrock of the Agriculture Act, had hardly got going before the Government announced that it was being reviewed. As a result, fewer than 2,000 farmers have signed up for the new payment scheme, while the old basic

payment scheme, on which some 80,000 farmers are reliant, continues to be phased out. This has left an almost £1 billion hole in the rural economy, and we know that farmers are already suffering huge financial costs at this time. The department's handling of this flagship policy is widely considered to have been a shambles. When will the revised scheme be up and running? Can we be assured that it will maintain the environmental and biodiversity ambitions that underpinned the Act in the first place? How will farmers be compensated for the financial consequences of the delay in rolling it out?

Lord Benyon (Con): I do not accept that there has been a delay, with respect to the noble Baroness. We are tapering out the basic payment scheme—which is understood right across this House as being bad for both the environment and farmers, particularly smaller ones—and replacing it with a scheme through which farmers are starting to see how they can fill the gap created by that taper down. As things stand, the standards that we have published give farmers roughly between £22 and £60 per hectare. We are going to roll out another four standards next year, another five the year after and another five the year after that. There has been no greater degree of consultation in the history of Defra in terms of how we have engaged with the farming community here. This is an iterative process. We have improved the scheme as it has gone on. The response we have had from farming organisations and individual farmers has been positive.

Baroness McIntosh of Pickering (Con): Will my noble friend join me in paying tribute to tenant farmers? In north Yorkshire, 48% of farms are tenanted. The farmers have done quite well under the existing schemes. What will they benefit from under the new initiative? Most of it seems to be environmental and, of course, they do not own land.

Lord Benyon (Con): It is absolutely vital that we have a strong tenanted farm sector in this country. It gives a plurality of land occupancy that encourages new entrants—that is, people who cannot inherit or buy land but can access farming. We have benefited from a really interesting report from my noble friend Lady Rock, which we are currently reviewing and which has more than 80 recommendations. We will respond in due course. Under the SFI, more tenant farmers can access this scheme than has been the case under previous schemes; this includes farmers with tenancies on a rolling, year-by-year basis. We have worked closely with the Tenant Farmers Association; we want to make sure that it can see a future in British farming in England.

Lord Carrington (CB): My Lords, I declare my farming interests as set out in the register. It is actually quite easy to apply for the SFI but, of course, the devil is in the detail. A major contributor to the lack of take-up so far is the vast amount of record keeping and record taking that has to take place. The farmer needs to assess the soil of every single field at different levels, do a worm count, take photographs and so on. According to Agrii, the farm consultants, a consultant can analyse six fields a day. Most farms in this country have up to 100 fields that need to be analysed. That is one problem.

The second problem is that samples need to be taken every five years; this includes organic tests in laboratories, which are expensive and require the use of helium. Helium is in extremely short supply. Can the Minister say what he is doing about this?

Lord Benyon (Con): First, what we are trying to do is bad news for land agents, because we have created a system that is simple; it takes somewhere between 20 and 40 minutes to enter the schemes currently in the process. We are turning those around within two weeks, in some cases, and within two months at most. I give credit to what the RPA has done in trying to get this right.

The noble Lord is absolutely right that there are conditions. This is public money. However, every farmer I know is doing soil tests and working with agronomists. The idea is that the cross-compliance and rules that govern this system should be straightforward and should not be a huge amount more work than farmers would be doing anyway—and in return, they will get public money.

Baroness Hayman of Ullock (Lab): My Lords, many farmers are reporting that the sustainable farming initiative payments fail to cover the costs of the actions that the scheme requires farmers to take. Does the Minister recognise this assessment? Does he agree that this is one reason why uptake has been so poor?

Lord Benyon (Con): This year we have rolled out our arable and horticultural soil standard, our improved grassland and moorland standards and the annual health and welfare review for animals. Next year we will roll out nutrient management, integrated pest management, hedgerows and advanced levels for the two soils standards, so farmers will start to see what they are doing. They will also receive £265 to cover the cost of the time it takes to fill in the forms. We want to make sure this is as easy as possible. As farmers see the benefits that will accrue to their businesses from the standards that will be applied, I think they will readily accept that this bedrock scheme is of great interest.

I should add that 36,000 farmers—nearly half the farmers in England—are already in agri-environment in the Countryside Stewardship scheme, which will morph into our mid-tier system, which is local nature recovery. So I hope that over the next few months noble Lords will see a really thoughtful, environmentally based system that is attractive to farmers and shows them they can get an income in return for good environmental actions that will support their businesses and give them a future in this business.

Baroness Boycott (CB): My Lords, the Secretary of State said in a recent speech at the CLA conference that the scheme the Minister just mentioned, the local nature recovery scheme, was not going ahead but its aims would be incorporated into the Countryside Stewardship scheme. Can the Minister comment on how on earth this is going to work in practice? Will there be extra money, or will the Countryside Stewardship money be divvied up yet further?

Lord Benyon (Con): Countryside Stewardship is already an established agri-environmental scheme. Many farmers are used to it. Roughly half the farmers in England are in some type of scheme, either the high level or another tier. As those schemes come to an end, they will be able to transfer into the mid tier, local nature recovery or whatever it is called at that time—it is Countryside Stewardship-plus. What is really important is that there will be a seamless continuity. Within that scheme they will be able to do similar sorts of things to what they are already doing in Countryside Stewardship.

Baroness Bakewell of Hardington Mandeville (LD): My Lords, the rollout of the SFI is extremely slow and, according to the NFU, only 849 farmers have so far joined the scheme—a fraction of the 5,500 that Defra suggested could apply. At the same time, the basic farm payments are decreasing year on year, having no regard for the extremely slow rollout of the ELMS replacement. Can the Minister say how the Government plan to support farmers now—not in two years—at a time when feed and fertiliser prices are rocketing, coupled with increased energy costs?

Lord Benyon (Con): We are helping farmers with the latter point. First, the noble Baroness's figure was not right; the number of farmers in the scheme is roughly double what she said. Secondly, we are helping farmers through bringing forward half their basic payment, which was an annual payment, to last July. We are doing a number of different things on energy. We are trying to support businesses, not just in farming but right across the board, with the spikes in energy costs. We are also rolling this out in a way that allows farmers to contribute to how the scheme is run. It is an iterative process. We have changed the schemes, working with people. There is a determination to see 70% of farmers operating within the sustainable farming incentive, the entry-level scheme, and many more in other tiers as time goes by. So I hope the noble Baroness will agree that this is the right way forward as we move away from the very unfair, anti-farmer, anti-small farmer basic payments scheme.

Invasive Group A Streptococcus and Scarlet Fever

Private Notice Question

3.33 pm

Asked by ***Baroness Brinton***

To ask His Majesty's Government what assessment they have made of their guidance to doctors and to parents in light of the increase in Strep A, iGAS and Scarlet Fever cases.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Markham) (Con): The UK Health Security Agency has declared a national standard incident to co-ordinate the public health response. It is working with schools and GPs where there are outbreaks to provide information on scarlet fever and iGAS. A rapid surveillance report and communications to the health system have been published to ensure heightened awareness among front-line clinicians. We are also putting out key messages for parents to understand the trigger points for urgent referrals of children with more serious cases.

Baroness Brinton (LD): My Lords, UKHSA has reported today that, in the last 10 weeks, it has received 4,622 notifications of scarlet fever, compared to an average of 1,200 for the same period over the previous five years—that is more than three times. Parents with very sick children report being turned away from hospitals or GPs not prescribing antibiotics. Local directors of public health are talking to schools and GPs, but can I ask the Minister what else can be done to ensure that all cases of potential strep A and scarlet fever are tested for, and treated as appropriate at the earliest moment, to avoid serious illness and death?

Lord Markham (Con): I thank the noble Baroness for bringing this important issue before us today. To give context and answer the point, there were about 850 cases in the latest week, compared with about 186 in previous years. Generally, in peak years such as 2018, we had as many as 2,000 cases per week. We are not at those levels at the moment, but we seem to be seeing an earlier season: we normally expect levels to be higher in spring. At the same time, it is essential that we are alert. We have given instructions to doctors that they should proactively prescribe penicillin where necessary, as it is the best line of defence, and that they should be working with local health protection teams to look at whether to sometimes use antibiotics on a prophylactic basis where there is a spread in primary schools, which we know are the primary vector.

Baroness Ritchie of Downpatrick (Lab): My Lords, the UK Health Security Agency is to work in collaboration with the public health agencies in Scotland, Wales and Northern Ireland. What level of collaboration has taken place on issues around strep A and scarlet fever, and what have been the results and outcomes? I am aware that there have been some cases in Northern Ireland.

Lord Markham (Con): I know that the health agencies in each country work very closely together. I do not yet have the specific details, so I will happily follow up on this. I know that they are working very closely because it is clearly an area of concern. Right now, we have not seen any evidence of a new strain, so we think that we are looking at existing strains. We are seeing this number of cases because of a general situation where there is less immunity in the population because of the isolation related to Covid.

Lord Hunt of Kings Heath (Lab): My Lords, the Minister will be aware that, on social media, there have been a number of recommendations by health professionals that concerned parents should go to their GP to seek advice. Yet he will know that GPs are under considerable pressure. The GP patients survey showed that over a third of people did not see or speak to anyone when they could not get an appointment at their GP practice. What special arrangements are being made to ensure that parents can get through the system to get advice?

Lord Markham (Con): I thank the noble Lord. At this point, I put out the general message that, if parents are aware that their child is unwell, particularly drowsy or dehydrated, that is when they should look to seek medical advice. They should start by using paracetamol and ibuprofen. Clearly, if there is no response, they should be particularly concerned and absolutely making sure that they are getting access to the surgery—to a nurse, as well as a doctor, in this case. This is clearly a priority area. We need to make sure that there is access for those people.

Baroness McIntosh of Pickering (Con): Following on from the question by the noble Lord, Lord Hunt, if the child presents symptoms after 6 o'clock at night or over a weekend, they will clearly be dependent on out-of-hours service. What is the department recommending that they do? Should they go to A&E in these circumstances? It is obviously absolutely vital that, if the child has meningitis or scarlet fever that may develop complications, they should be attended to and given medical assistance as soon as possible.

Lord Markham (Con): I can probably draw on a personal illustration. In answer to a question a couple of weeks ago, I mentioned how I used 111, and in this case I think the advice would be to use 111. In that instance, I was able to get access to a doctor. On that basis, if the symptoms are there, to take that example, a doctor can arrange for a prescription to be sent to an out-of-hours pharmacy. The most important thing in these circumstances is to get antibiotics quickly. The first thing I would say is to use 111. Obviously, A&E is always there, but a more effective route would be through 111.

Baroness Merron (Lab): My Lords, the Minister and noble Lords will know that parents across the country are deeply worried by this situation. To pick up the point that the Minister has just made about the 111 service, perhaps he can respond to the concerns that have been raised by some medical experts that the NHS's 111 service is not fit for purpose in effectively identifying and triaging critically ill children.

Lord Markham (Con): All I can say on that is that, clearly, that is not acceptable and we need a situation where it can, and that is why we should have inspectors. If we are using 111 as a backbone service, as we are in this case, it is vital that people are getting proper advice. By the way, I see a lot of that, and it is something that I am personally involved in now, as well as using it digitally—a lot of these things can be done through the use of the apps and so on—but, clearly, we need to make sure the advice people get is sound.

Lord Cormack (Con): If a parent has not had a response from 111 within an hour, should they not then ring 999?

Lord Markham (Con): I would advise—and again this is personal advice—that, if they have not got a response and they are concerned about their child, it is probably better and quicker for them to drive, if they are able to. Clearly, if there is a 999 ambulance response because they cannot get to the hospital quickly, then that is a fallback, but if they are able to drive with their child and they are concerned in that way, my advice would always be to go for safety first in this. Again, as a parent of a four year-old and seeing the chatter on social media over the weekend, I know this is an area of concern. Clearly, we need to make sure that reassurance is there for everyone.

Baroness Browning (Con): My Lords, I had scarlet fever twice as a child, two years running. I seem to recall a doctor called at my home, diagnosed and prescribed. Also, at that time—it was the late 1950s—my library books were taken away for fumigation, and I was kept in isolation. Why can we not have that sort of service today?

Lord Markham (Con): That is a serious question, and I think many of us would love that kind of service, but we know we are living in an age where the community doctor in that way does not exist. It was way before my time, but I think changes were made to GPs' contracts which means that, unfortunately, that is not part of the standard service that people have any more, which is why we rely on 111 and other services as back-up.

Road Vehicle Carbon Dioxide Emission Performance Standards (Cars, Vans and Heavy Duty Vehicles) (Amendment) Regulations 2022

Road Vehicles and Non-Road Mobile Machinery (Type-Approval) (Amendment and Transitional Provisions) (EU Exit) Regulations 2022

Transport and Works (Guided Transport Modes) (Amendment) Order 2022

Motions to Approve

3.43 pm

Moved by ***Baroness Vere of Norbiton***

That the draft Regulations and Order laid before the House on 20 and 24 October be approved.

Considered in Grand Committee on 30 November.

Motions agreed.

Healthy Homes Bill [HL]

Order of Commitment

3.44 pm

Moved by ***Lord Crisp***

That the order of commitment be discharged.

Lord Crisp (CB): My Lords, I understand that no amendments have been set down to this Bill and that no noble Lord has indicated a wish to move a manuscript amendment or to speak in Committee. Unless, therefore, any noble Lord objects, I beg to move that the order of commitment be discharged.

Motion agreed.

Northern Ireland (Executive Formation etc) Bill

Second Reading

3.44 pm

Moved by ***Lord Caine***

That the Bill be now read a second time.

The Parliamentary Under-Secretary of State, Northern Ireland Office (Lord Caine) (Con): My Lords, I was honoured and humbled to attend a service in Ballykelly yesterday to mark the 40th anniversary tomorrow of the heinous and depraved Droppin Well bomb, which killed 11 soldiers and six civilians in 1982. In working as a Government to build a stronger, shared future for Northern Ireland, we should never forget that all terrorism, then as now, was totally unjustified and unjustifiable. There was always an alternative to murder.

I reiterate this Government's unyielding support for the historic 1998 Belfast agreement, to the constitutional principles it enshrines, to the institutions that it establishes and to the rights that it guarantees for all in Northern Ireland. I reiterate what I have said on previous occasions: the agreement is the bedrock of all the progress that has been achieved in Northern Ireland in recent decades and protecting the agreement will remain at the heart of everything that we do. This Government will not take risks with the hard-gained relative peace and stability that the people of Northern Ireland enjoy today.

Central to that agreement is, of course, a fully functioning Executive and Assembly, from which the other institutions in strands 2 and 3 of the agreement flow—an Assembly and Executive where locally elected representatives can address issues that matter most to those who elect them. This has not, however, been the case since February this year and in the period following the Assembly election that took place on 5 May. As I set out in my Statement in this House three weeks ago, it is a matter of profound regret that the Northern Ireland Executive had not been restored by 28 October, the deadline after which the Secretary of State would come under a legal obligation to set a date for a further election.

I think it is clear to most, however, that a further election in the immediate term would be unlikely to produce a significantly different result or resolve the situation that we currently face. The time has therefore come for the Government, and indeed noble Lords in this House, to take action in response to what can best be described as the governance gap that has emerged in Northern Ireland. That is what the Government's Bill seeks to do.

Separately, I set out in a Written Statement on 24 November how the Government intend to respond to the extremely difficult budgetary issues that have arisen in Northern Ireland. The Government will bring forward a separate budget Bill where more detail will be provided on this; no doubt noble Lords will want to consider that carefully. This Bill, though, is about creating the conditions whereby some key decisions in Northern Ireland can continue to be taken, including on the implementation of that forthcoming budget.

I am sure noble Lords will be relieved to hear that I do not intend to speak at great length in this Second Reading; I know that many noble Lords will want to come in during the limited time available to us today. Before I briefly summarise the overall intention of this legislation, I offer my thanks to the House for considering this Bill at the pace required. I am very grateful to the noble Baroness, Lady Drake, for the very constructive approach of the Constitution Committee to this legislation. I assure her and other noble Lords that the Government do not take these steps lightly, and I am glad that there seems to be broad consensus on the need to consider this quickly.

I also welcome a very old friend of mine, the noble Lord, Lord Weir of Ballyholme, to his place in this House today. The part of Northern Ireland that forms part of his title I know extremely well, not least because I have close friends who live about five doors from the Esplanade bar in his former constituency, which he will know very well. He will be making his maiden speech today and, if he takes his cue from his noble friends in the DUP, as I am sure he will, he will no doubt bring to proceedings unparalleled expertise, as a former Northern Ireland Executive Minister, and a formidable eye for detail. I wish him well. The noble Lord will, I am sure, help to strengthen further the reputation of this House as the Chamber of Parliament that diligently scrutinises legislation and holds the Government of the day to account, while at the same time bringing together Peers who represent all the regions and nations of our United Kingdom.

Broadly, the Bill seeks to do three main things. First, it retrospectively extends the period for Executive formation for a further six weeks until 8 December, with a power to extend by a further six weeks after that until 19 January. That means, subject to the agreement of this House, that if an Executive is not formed within those timeframes, the duty placed on the Secretary of State to call an election will commence this week, on 9 December, or, if the second six-week extension is activated, on 20 January 2023.

Secondly, the Bill clarifies the decisions that civil servants in Northern Ireland government departments can take in the absence of Northern Ireland Ministers, meaning that decisions in crucial areas can continue to be taken.

Thirdly, the Bill provides for powers that allow the Government to take action to amend the pay of Members of the Northern Ireland Assembly when they are unable to conduct the full range of the functions expected of them.

The Bill also provides for a number of other measures; namely, making provision for certain public appointments to be made in the absence of an Executive and conferring

on the Secretary of State a power to set regional rates in Northern Ireland for the financial year ending 31 March 2024.

No doubt we will speak to each of these provisions in greater depth as proceedings continue but, taken together, these measures will help to plug the governance gap that has emerged. However, I cannot stress enough that the Bill is not intended to be a long-term solution to the issues that Northern Ireland is facing.

I will briefly go through the Bill's clauses. Clause 1 makes provision for an extension of the period for filling ministerial offices, as set out in the Northern Ireland Act 1998 and amended by the Northern Ireland (Ministers, Elections and Petitions of Concern) Act 2022. It retrospectively introduces a further six-week period during which an Executive can be formed, to 8 December. Clause 2 provides for a further power to extend the Executive formation period by a further six weeks.

On decision-making, Clauses 3 to 5 clarify decisions that Northern Ireland civil servants can take in the continued absence of an Executive. The Government have broadly mirrored the approach that the previous but one Administration took in 2018 with regard to these powers, largely replicating the relevant provisions in the Northern Ireland (Executive Formation and Exercise of Functions) Act 2018.

Northern Ireland civil servants will therefore be provided with the necessary certainty to take a limited set of decisions where it is in the public interest to do so. To assist them, the Secretary of State published draft guidance on 29 November on taking decisions in the public interest and the principles to be taken into account in deciding whether or not to do so—again, mirroring the previous approach. I think I am right in saying that guidance has gone to Members of the Legislative Assembly, who have until 8 December to make representations. However, as I have said previously, we recognise that this is not a long-term solution and civil servants cannot be left to take decisions indefinitely. That is why these provisions will last for six months or until an Executive is formed, whichever is sooner.

On public appointments, Clauses 6 to 9 make provision for certain public appointments that would normally have to be made by Executive Ministers or require their approval to be made. Again, this mirrors previous legislation and is another sensible step to take to ensure that key appointments that are necessary to maintain governance and public confidence in the institutions in Northern Ireland can still be made.

Clause 10 will allow the Secretary of State to take action when it comes to the pay of Members of the Assembly. These clauses will therefore allow the Secretary of State to amend MLAs' pay in this and any future period of inactivity, drawing on Sections 47 and 48 of the Northern Ireland Act 1998. We anticipate that any determination made once these provisions come into force will take into account the independent analysis produced in the previous political impasse between 2017 and 2020.

The Secretary of State will retain the power to set MLAs' pay in future instances where the Assembly is unable to elect a speaker and deputies following an election. The power would then go back to the current arrangement when these roles are filled and the Assembly is able to conduct business.

Clause 11 confers on the Secretary of State a power to set the regional domestic and non-domestic rate in Northern Ireland for the financial year ending 31 March 2024 by regulations. These rates must be set for every financial year. Clauses 12 to 15 are minor and consequential.

No Government would want to be in the position in which we find ourselves today. It is clearly not a satisfactory state of affairs. In response, although this Bill will provide some short-term cover, so to speak, it is clearly not a long-term solution. Such a solution remains primarily for a newly reconstituted Northern Ireland Executive and Assembly, working in partnership with the United Kingdom Government, to tackle. I assure noble Lords in this House that we will continue to work tirelessly during the timeframe set out in the Bill to create the conditions that will enable those institutions to be re-established at the earliest possible opportunity.

During my Statement to the House on 14 November, I reflected upon the upcoming 25th anniversary of the Belfast agreement and made the point that we should be marking the progress that Northern Ireland has made since that historic agreement. I sincerely hope that this will be the case. Meanwhile, we have little option but to pass this necessary but regrettable legislation. On that note, I beg to move.

3.56 pm

Baroness Ritchie of Downpatrick (Lab): My Lords, I thank the Minister for his presentation on the Bill. I recognise and acknowledge that it is necessary but, like him, I feel that the only solution is the restoration of all the political institutions of the Good Friday agreement. For that to happen, there is a need for interparty talks, involving both Governments, to take place fairly expeditiously to address all the outstanding issues in respect of these matters and those of the *New Decade, New Approach*, agreement that was reached between the two Governments back in January 2020, and which witnessed the establishment of the political institutions.

Before I progress to the content of the legislation and any political analysis, I too welcome the noble Lord, Lord Weir of Ballyholme, to his place. He, like me and other noble Lords across the Chamber, served in the Northern Ireland Assembly; some of us served as Ministers on a range of issues in the Northern Ireland Executive. Across that chamber, I took issue with him on several occasions. Notwithstanding that, and although our political origins and politics on the constitutional issues may be different, I look forward to working with him on a range of matters. I also look forward to hearing his maiden speech today.

The purpose of the Bill, as the Minister has indicated, is to extend the deadline for forming a Northern Ireland Executive on 8 December for another six weeks, until 19 January. However, I would hope that the institutions of the Good Friday agreement will be re-established. I have some reservations about the Bill and, in considering this legislation, an immediate question arises: how and why have we got to this point in our political deliberations in Northern Ireland?

[Baroness Ritchie of Downpatrick]

To me, this legislation represents not only a further manifestation, sadly, of political failure but is also the Secretary of State putting a sticking plaster on a running sore of ongoing political paralysis in Northern Ireland. It is kicking that proverbial can down the road until the institutions are established and then there is a further fall of them. There is a need to look at issues that we discussed in debating the previous legislation earlier this year, such as the designation of the First Minister and Deputy First Minister as joint First Ministers, and an end to these never-ending vetoes.

I honestly think that the Secretary of State for Northern Ireland does not understand the politics or politicians in Northern Ireland. He and his colleagues seem to think that, by threatening an election, reducing Assembly Members' salaries or preventing the payment of the energy money, somehow politicians will be brought to heel. An examination of the history and politics in Northern Ireland would show that this will not happen.

We have seen our local population in Northern Ireland be subject to the ransom politics of the DUP and the gamesmanship of the Secretary of State and the Government. None of these actions helps or builds reconciliation, which is urgently required, or builds good, harmonious living conditions for the people of Northern Ireland, or assists with the cost of living or the cost of doing business crises, or attempts to reform our health service to make it more accessible to the general public, who are lingering in pain trying to get on to waiting lists for assessment, diagnosis, surgery and treatment.

That brings us to the next question: what is the purpose of politics? It is about representation and delivering the needs of people and communities. This is currently hampered in Northern Ireland. Either through their own actions or the actions of others, elected MLAs are being hampered in doing their jobs due to the lack of political institutions as per the Good Friday agreement model. Interparty dialogue should have happened after the elections in May, rather than the political gamesmanship of the DUP and the British Government.

Although this is a stopgap mechanism, I ask the Minister where such talks have been since the Assembly elections of May 2022. What attempts are there to get the parties around the table to re-establish the institutions? What plans do the Government have to do just that? What is the plan to deal with the outstanding issues which have not yet been implemented from the *New Decade, New Approach* agreement of January 2020? All we have is the refrain that the protocol is preventing restoration—but the Assembly is not responsible for such negotiations. As we all know, protocol negotiations are the responsibility of the UK and EU negotiating teams. I gently say to the DUP, as I did on the night of the Statement, that no political ideology should be used to prevent the restoration of those political institutions when people's lives are being sacrificed.

One aspect of the legislation disturbs me. Clauses 3 to 5 will ensure that Northern Ireland's senior civil servants can exercise departmental functions in the absence of Ministers if they are satisfied that it is in the public interest. Having those powers for six months or until a new Executive is formed, however temporary, places them in an impossible position. Political decisions are required on budgetary allocations and budgetary reductions to departments to ensure that public services can continue to function. Those are decisions to be exercised by politicians and not by civil servants.

Over the past week or two we have heard from former senior civil servants. The former head of the Civil Service, Sir Malcolm McKibbin, stated on the "Red Lines" podcast that the Government are making the task of civil servants more complicated. He further stated that the guidance published by the Government on how civil servants take decisions would exacerbate the pressures they face. He stated that

> "the challenge now is greater because primarily before it was permanent secretaries sorting out how to allocate additional resources—this time it's about reducing services and there will be losers".

He added that the lack of scrutiny around decisions that are expected to be taken for as long as the stalemate continues at Stormont is not a good thing.

Without a sitting Assembly, Assembly Members cannot sit on statutory committees to question and scrutinise decision-making by relevant departments. Sir Malcolm McKibbin's successor, Sir David Sterling, said that the Civil Service was being put in an "impossible position", while Andrew McCormick, a former Permanent Secretary, called this an "affront to democracy". The current head of the Civil Service, Jayne Brady, has said that that they are civil servants and the people of Northern Ireland face challenging times.

We can all recall instances between 2017 and 2020 when Sinn Féin brought down the political institutions. At that stage, civil servants were empowered to make decisions and, as a result, there was some litigation involving decisions to be made in respect of an incinerator. Unfortunately for civil servants, if they make unpopular decisions on budgetary allocations and reductions, impacting the lives of people and the community, my fear is that there could be scope for litigation again.

What needs to happen is a restoration of the political institutions to which people are elected; a successful outcome to the negotiations on the protocol; the establishment of interparty talks looking at the appointment of joint Ministers to underscore equality, which would obviously mean legislative change; and an end to vetoes, which have prevented the political institutions from working properly. We need to put inclusion, reconciliation and equality—the central principles of the GFA—back in government, with interparty talks with both Governments, looking at the outstanding issues of *New Decade, New Approach* and putting a plan in place for the implementation of the outstanding issues.

When I was elected to the Assembly in November 2003, it was not sitting and the institutions were not working. My noble friend Lord Murphy was then the Secretary of State for Northern Ireland. He docked our pay and there were the Leeds Castle talks, and, although we may not have liked their outcomes, interparty talks nevertheless took place because of the actions of a Labour Secretary of State.

In 2006, we were still in that limbo situation, and the then Secretary of State, Peter Hain, now my noble friend Lord Hain, of Neath, held talks that led to the restoration of the institutions in 2007. Although we may not all have agreed with the outcomes in that instance, my point is that interparty talks took place and efforts were made by the UK and Irish Governments to ensure that, with a view to resolving the outstanding difficulties and getting the institutions up and running.

So I say to the Minister and the UK Government: please convene interparty talks to get these issues resolved as quickly as possible. There obviously needs to be joint working with the Irish Government in respect of the British-Irish Intergovernmental Conference, and I am pleased that efforts are being made in that regard. Although I support this temporary stopgap legislation, I believe that those political talks are urgently required.

4.08 pm

Lord Bew (CB): My Lords, I support the Bill and, like the noble Baroness, Lady Ritchie, I welcome the noble Lord, Lord Weir. This is the first time I have had the pleasure of welcoming a former student of mine to this House, and I hope it is not the last. He will bring a lot of skill and experience as a Minister and politician in Northern Ireland, which will be very useful to this House.

I particularly welcome that we have not fallen, as we have on previous occasions, into the trap of having too passive a model of direct rule for this—I hope short—period of time. It is pure common sense to allow senior officials to make certain discretionary decisions; we have had enormous difficulties in the past when we have not done that. It is difficult, and I fully accept the point made earlier that, as time goes on and with tough economic decisions to be made, it will become even more difficult. I fully accept that senior civil servants do not like it, but, on the whole, it is the best way forward for this period of time, which we hope to make as short as possible. It is an entirely appropriate exercise of UK sovereignty and, in essence, a practical measure. However, this Bill is meant to be a very temporary expedient, and the longer the directive lasts, the more difficult the position of our civil servants will become.

The question remains: how realistic is the putative return to devolution? I will address my remarks in the spirit of the Minister and the noble Baroness, Lady Ritchie, both of whom placed the Good Friday agreement at the centre of their reflections. My remarks are intended to draw attention to some of the things that might facilitate a rapid return to devolution. It is clear that interesting negotiations are taking place—very interesting, if you read some of the Dublin reports on the interplay between the UK Government and the EU—and I hope there will be continuing good progress on that front. Last week, our officials gave a public demonstration, to which journalists and other interested parties were invited, of the new technology Britain could offer. The days are gone when the EU could dismissively wave its hand and talk about unicorn technology and magical solutions. This is now quite detailed and impressive, and it ought to make the difficulties in the strand 3 area much easier to overcome.

This is very important, because strand 3 of the Good Friday agreement insists on a harmonious and modern model of relations between Great Britain and Ireland, including Northern Ireland. Currently, however, the model is anything but harmonious, given the number of interventions, delays, checks and so on. We may have done the technological work which allows us a way out of that. The EU's response is going to be very significant, because to return to devolution we will need to have the Good Friday agreement clearly up and running—and that includes the critical area of strand 3. However, it is not just strand 3 that is important; so is strand 2, on north/south relations. Here, I want again to say something positive and helpful, but the truth is that the working model of strand 2 we have had for many years—north/south relations mandated by the Northern Ireland Assembly—has basically crashed and collapsed and is in total disarray.

But are we therefore without hope? I draw attention to two things: first, what the EU itself says in the protocol section of the withdrawal agreement, parts 1 and 2 of Article 11, where it says that all the parts of strand 2 should be working—it really wants that. At the moment, however, it is as dead as a dodo; none of its parts is working. It then says that it will be flexible to make sure that this excellent arrangement for north/south co-operation continues. This is amazingly non-controversial to anybody who the remembers the Northern Irish politics of the 1990s: unionist acceptance of north/south co-operation on the basis of consent and an assembly mandate is one of the great achievements of the Good Friday agreement, and we must not throw it away. Instead, we must build on it to get out of the dreadful mess we are in. The EU has said that it wants it working at full tilt, and that it will be flexible to help with difficulties.

Secondly, I draw attention to a letter from the right honourable Sir Jeffrey Donaldson in the *Irish Times* on 8 July 2019, in which he picks up on that precise point. He is following on from important analysis by fair-minded and well-known commentators on north/south relations in the *Irish Times*: Newton Emerson, who wrote on 27 June, and Andy Pollak, who wrote on 3 July. Donaldson says that he, too, believes that the revival of north/south institutions would be helpful in facing and dealing with the problems currently posed by the protocol. As we have agreed institutions for food safety and animal health, which are clearly issues at stake in the whole mess we are now in, it has always been a mystery to me why they are not used or even expanded in certain areas. The institutions have grown up since the Good Friday agreement, and the two issues I mentioned are actually in the text of the Good Friday agreement, so why are these institutions not strengthened as a means of finding a way through this mess and to reassure the EU, which has legitimate concerns about animal health and protection of the single market?

In conclusion, I would like to point out that there is an excise border in the island of Ireland. It was there long before the protocol and it will be there long after the protocol. That excise border means that there is a substantial amount of smuggling already, and there is a strong such tradition. It is very much in our minds in

[Lord Bew]
recent days because we have just seen a gangland murder in Newry that seemed to have that dimension, and there is a rather dramatic case going through the courts in Dublin at the moment that also bears on some of these issues.

I remind the House that, in the wake of 9/11, both the United Kingdom and Ireland were on the Security Council, as indeed they are today. Then, we agreed and passed Resolution 1373, which says that borders are places of criminality and we need to keep an eye on them. They are places where money gets lost and where terrorism can sometimes place itself quite easily. It makes it quite clear that border areas are areas of skulduggery. I cannot understand why, therefore, at this moment—and we have just seen dramatic evidence with the latest murder that the border is once again an area of skulduggery—we do not have an enhanced UK-Ireland agreement to work together on these matters. This should be done for its own sake, but it would also perform the function of dealing with some of the concerns that the EU inevitably has about smuggling—which is a legitimate concern about smuggling and penetration of the single market.

I offer those ideas in the hope that they may be of some use in the current debate about how we bring devolution back, because the timescales announced in this Bill are extremely tight, given the interference, for example, of the Christmas holidays in the middle of them. It remains the case that there is now a possibility—I put it no higher than that—of a new understanding with the EU. The atmosphere is certainly much better; the fears expressed in this House at the beginning of the Northern Ireland Protocol Bill on that score turned out not to be correct. There is now a possibility of some kind of positive movement, but it will be done—this is where I agree with the two previous speakers—only by intense fidelity to the underlying principles of the Good Friday agreement, strand 3 and strand 2, and by trying not just to preserve them but actually to breathe new life into them and, if necessary, expand them.

Sir Jeffrey Donaldson's letter, in that sense, is very close to what the EU says in Article 11.2 in the section entitled "Protocol to the Bill"; the EU says it is its position. So I think this is something we ought to be exploring at this point, because it is going to be a struggle to meet the timetable in this Bill.

4.18 pm

Lord Weir of Ballyholme (DUP) (Maiden Speech): My Lords, it is a great pleasure and an honour to make my maiden speech in this Chamber. It is a particular pleasure to follow my former lecturer, the noble Lord, Lord Bew: I will leave it to the discernment of the House at the end of my remarks to determine whether he was a good enough lecturer—or perhaps, more pertinently, whether I was a good enough student. Members will have to decide that for themselves.

I also place on record my thanks to the staff of this House for the great help they have been to me, both before and after my introduction to the House. I thank fellow Peers as well for the warm welcome I have received and for the kind remarks of those preceding me in this debate—although I say to the noble Lord, Lord Caine, that his allusion to my familiarity with the bars of Ballyholme might not have necessarily done me any favours with my party colleagues.

I hope I can bring a little bit of familiarity to the issues of the governance of Northern Ireland, to Executive functions and particularly to the Assembly. I believe that I am one of only five people to have contested all seven elections to the Northern Ireland Assembly since its inception in 1998. During that period, I have been able to both participate in and view the governance of Northern Ireland from a range of perspectives: through involvement in the Local Government Association and the Northern Ireland Policing Board; in my capacity as a Back-Bench Member of the Assembly serving on a number of committees; as a committee chair, holding government Ministers to account; as Chief Whip of the largest party in the Northern Ireland Assembly; and, finally, through serving two terms as Education Minister.

From that experience, I have drawn the conclusion that devolution is clearly the best vehicle for and the best method of governing Northern Ireland. However, to be successful, devolution requires both stability and, in particular, buy-in from across the community. It is a fragile flower that needs protecting.

I also have the great honour, as a native of the newly created city of Bangor, to be the second son of that great city to have served in this House in recent years. I have the honour of sharing that distinction with the late Lord Trimble. Although Lord Trimble was 24 years older than me and, occasionally, we did not always see eye to eye, we have a remarkably similar background. Lord Trimble was educated first at Ballyholme primary school, as was I; he went on to Bangor grammar school, as did I; he then studied law at Queen's University, as did I; he was then called to the Bar of Northern Ireland, as was I; and he went on to become a distinguished academic lawyer—and that is perhaps where our paths diverged. While, for one term, I did teach constitutional and administrative law, it would be pretentious of me to lay claim to any of the abilities of Lord Trimble in that connection.

There is always a danger in attributing views to those who have predeceased us, but I think that I can say with a level of confidence that Lord Trimble would share with me a similar approach to the legislation that is before us—which is to see it as a somewhat reluctant necessity caused by the failure to deal with the problems created by the Northern Ireland protocol, which, as the noble Lord, Lord Bew, indicated, has not only created the issues we see today around the internal governance of Northern Ireland but has had a profound effect on both strand 2 and strand 3 of the agreement. There will be further opportunities to delve into the detail of the Northern Ireland protocol, which I will not explore today, but we should be in no doubt that not only is the Northern Ireland protocol the root cause of this legislation, but—although it is not directly mentioned in the legislation—it remains the elephant in the room when we are discussing it.

I turn briefly to some of the detail contained within the Bill itself. As the noble Lord, Lord Caine, indicated, it has a number of component parts. First, it effectively

legitimises the decision of the Government to postpone an imminent Assembly election. On balance, that is a sensible approach. It would be wrong if an election was postponed simply because someone did not like the potential outcome; that is not a legitimate reason. Nor indeed should an election be used as some sort of leverage or threat over any party or individual group. Experience in Northern Ireland shows that not only would that not produce the results that were intended but it would be counterproductive.

It is the case, however, that holding an election at the moment would, at best, act as both a delay to and a distraction from the action that is necessary to resolve the issues within Northern Ireland. It would also, I believe, not tell us anything different from what we already know. It is clear that nationalist parties and the Alliance Party are, broadly speaking, able to live with the Northern Ireland protocol, albeit that they are no longer insisting on its full implementation, while unionist elected representatives, of whatever shade of opinion and whatever party they belong to, are implacably opposed to the protocol. Any election would simply reinforce that and highlight it again from the electorate of Northern Ireland.

The second part, which to be fair, as the noble Baroness, Lady Ritchie, highlighted, is probably the most difficult, is the powers conferred on senior civil servants in Northern Ireland. They form a very august body of men and women—I know most of them personally—but there is no doubt that this places them in a very difficult position regarding decision-making. It can be only a temporary measure.

However, it is difficult, in the current circumstances, to find a better alternative to what is being proposed. The noble Baroness, Lady Ritchie, referred to the Buick decision, which challenged decisions made by senior civil servants during the previous suspension of devolution. I look forward to the Minister's response on this, but I believe and trust that the legislation has been framed in such a way to try to ensure that a Buick-type situation does not occur again.

The third element is the power, in limited circumstances, to make appointments. Again, that is necessary. I trust it will not be abused by the Government and that it will be used only where it is necessary.

The fourth issue, which has probably excited the greatest media interest, is MLA pay. When I served as an MLA for 24 years, I took it as a point of principle never to offer an opinion or try to lobby on what my level of pay should be. It is right that there is a reduction in pay where MLAs are not in a position to fulfil their full role. I do not think that anyone could disagree with that proposition. It is right that it is not extended to the salaries of those working for MLAs, who continue to do their day-to-day work in constituency offices. It would be wrong to punish them for the sins of the MLAs. I simply say, again echoing the remarks of the noble Baroness, Lady Ritchie, that it would be a misconception to believe that any level of reduction in or promise of restoration of pay will have any great impact in changing the principled position that my party and others have on this issue.

Finally, there is a power in the legislation to set a regional rate. Allied to that are proposals that will be brought forward on the budget. Again, this seems sensible, notwithstanding that, whenever a budget is produced for next year, many of us might well have disagreements over its configuration.

We have reached this position because there have been missed opportunities with the Northern Ireland protocol. There has at times been inflexibility from the EU and promises have been unfulfilled. But I end in a spirit of hope and optimism. If this legislation can act as a device to put in place on a temporary basis governance arrangements that take these issues away, in the short term, from the political sphere, if it effectively clears away the rubble of problems of governance and allows a forensic and focused examination of the problems that face Northern Ireland through the Northern Ireland protocol, and if those opportunities are grasped to change and fix those problems, then this will be very worthy legislation. It is on the basis of the opportunity that needs to be taken that I stand to support this legislation. Thank you.

4.28 pm

Lord Dodds of Duncairn (DUP): My Lords, it gives me enormous pleasure to follow my noble friend Lord Weir of Ballyholme. I congratulate him on his maiden speech. We are fortunate that he delivered his first speech in your Lordships' House on the subject of the devolved institutions in Northern Ireland, given his service, as we have heard, over 24 years as a long-standing Member of the Legislative Assembly in Northern Ireland.

My noble friend and I have a number of things in common. He is also a barrister, having been called to the Bar of Northern Ireland in 1992, some years after me, I have to say—many years after me, in fact. He was a member of the Northern Ireland Forum, along with me, which was elected in 1996 and which led to the talks and the Belfast agreement. Like me, he was elected to the first Northern Ireland Assembly in 1998. The major difference was that, at that time, he was a member of the Ulster Unionist Party. However, in 2002 he made the wise, sensible and courageous decision to join the ranks of the Democratic Unionist Party. He has played an important role in our party from that moment.

Indeed, my noble friend led the way in many respects by being the first Ulster Unionist Assembly Member to make that seminal change. He would be followed into the DUP from the Ulster Unionists two years later by another distinguished Member of your Lordships' House, the noble Baroness, Lady Foster of Aghadrumsee, and the current leader of our party in the other place, Sir Jeffrey Donaldson. I well remember my noble friend coming to see me in our offices in the City Hall at around the start of 2002 to discuss that switch, and it gives me great pleasure to sit beside him and to follow him in speaking today in your Lordships' House. In the 20 years since that moment, he has served first as a Member of the Assembly for North Down up until 2017 and then latterly as a Member for Strangford. He was also a member of North Down Borough Council from 2005 to 2015 and, as he mentioned, he has served twice as Minister of Education.

Shortly after taking office in 2020, he, like other Ministers in the devolved Government, faced the enormous challenges of the Covid pandemic. It is

[Lord Dodds of Duncairn]
right to put on record that he strove valiantly during that time to put the interests of children first, and to endeavour to keep our schools open, so far as possible, for the education of our children, something which most people now acknowledge and accept should have been of an even greater priority across the United Kingdom during the pandemic. During his time in office, he also set up an expert panel to produce a report, *A Fair Start*, on educational underachievement among the most disadvantaged in Northern Ireland. It has produced a very far-reaching and long-sighted plan identifying key actions to support children from birth and throughout their early years, up to and including the time they start school. This is one of the most important pieces of work in recent years commissioned by the Department of Education. It will make a real difference—as I know, speaking from experience of my constituency of Belfast North, which I had the honour to represent—if properly implemented and resourced.

We are blessed to have my noble friend in our presence, in terms of his future membership of this House. He has been a person of honour, integrity and ability in his political life, in the Assembly and, as increasingly rare attributes in politics, he has exemplified loyalty, dedication to his principles and service to his constituents and party. I, for one, am truly delighted to see him in your Lordships' House. I think he will make, as we have seen today, a considerable contribution to your Lordships' deliberations in the years to come.

I turn to the Bill before your Lordships. Like others, I welcome, reluctantly, its contents: it is necessary but unfortunate. Although I know we have been through a number of iterations of government in recent months, it is clearly the case that had Governments under different Prime Ministers moved with greater alacrity to deal with the protocol issue, we would not be in the position we are in today.

I well remember that after the European Union decided to invoke Article 16 in order to put a vaccines border on the island of Ireland, to prevent vaccines coming to Northern Ireland at the start of the Covid pandemic, the then Prime Minister undertook that there would be action to deal with the protocol by March. We were then told that there would be action by the beginning of the summer, and instead we got a Command Paper in 2021 that set out the Government's position. It was a welcome paper, but clearly only a set of proposals. We were then told that there would be a short, intensive period of negotiations starting in early September 2021, which would last three or four weeks and then, if the talks were successful, great; if not, action would be taken. Again, that was extended to Christmas, we had the resignation of the noble Lord, Lord Frost, and then we were into another period of delay.

During this time, the leader of the Democratic Unionist Party warned that time was running out, because we could not have a situation where unionist Members of the legislative Assembly—all of whom, regardless of whether they are members of the DUP or other parties, are opposed to the protocol; they object to it and they voted against it—were required to implement that protocol. Despite the warnings and the passage of time, unfortunately nothing was done. That has led to the position that we now find ourselves in.

As other noble Lords have said already, we want to get devolution back and up and running as quickly as possible; that is the aim and objective of all sensitive people. But it cannot be sustainable if we continue with a position that sees the imposition of a protocol which trashes strand 3 of the Belfast agreement, as amended by the St Andrews agreement, and which also does great damage to strand 1 of that agreement. The fact of the matter is that not only are those strands impacted by the effects of the protocol but the principle of consent has been completely undermined. In the *New Decade, New Approach* document—which led to the restoration of the Assembly in January 2020—annexe A commits this Government to ensuring that Northern Ireland is a fully integral part of the UK internal market. So when we talk about the implementation of *New Decade, New Approach* commitments, we are still waiting for that to happen.

Although the protocol Bill has been introduced—it has had its Second Reading debate and Committee stage—we are still waiting for it to be progressed in the absence of any progress on the talks. I would be very interested in hearing from the Minister when he comes to wind up what the latest state of play is in relation to the talks, because, like others, I am concerned that we do not have very much time. This Bill institutes a six-week delay and then a further six weeks to the calling of an election, and that takes us to 19 January. It seems to me that there is going to have to be an enormous amount of heavy lifting in the negotiations and talks that have to take place between now and that date. There is no indication, as yet—though perhaps the Minister can indicate—of any change in the negotiation mandate of the European Union. There are aspects, even under the Government's proposals in the July 2021 Command Paper, and in order to get to an agreement which will see devolution restored, that will require changes to the protocol itself. Therefore, it seems that time is very short indeed.

Although reference has been rightly made to concerns around giving civil servants powers such that are contained in this Bill—all of us regret seeing the situation where civil servants are put in that position—we have to remember that these are Northern Ireland civil servants. Even if the Assembly was restored overnight, under the current conditions it is not civil servants from Northern Ireland who would be making decisions; it would be civil servants in the Commission of the European Union proposing laws which apply to Northern Ireland. So when we talk about democratic deficit, concerns about the role of civil servants and unaccountability, it should be the concern of everyone—unionists, nationalists and non-aligned; anyone who is concerned about democracy, decision-making, accountability and transparency—that the powers over large swathes or our economy, agri-food, VAT, customs and so on should be made by people in Northern Ireland who are accountable to the electorate of Northern Ireland, or certainly accountable to someone in the United Kingdom at least. But that is not what we have at the present time.

We have the current court case that is going on in relation to the Acts of Union; judgment has been reserved in that, so I do not want to say a lot about it. However, the fact of the matter is that courts in Northern Ireland have ruled that there has been a breach of the Acts of Union as a result of the protocol—"subjugated" is the word that has been used.

For all these reasons, we find ourselves in a very difficult position, where it is unsustainable to imagine the operation of the institutions of the Belfast agreement, as amended by St Andrews, operating until the protocol is sorted out. As I have said, I look forward to hearing of progress on talks, but that seems to be some way off. The noble Baroness, Lady Ritchie, mentioned talks among parties in Northern Ireland. That is all very well, and I have no particular objection to that, but this issue is not going to be solved by talks among parties in Northern Ireland, unlike previous situations. This is going to be solved either by decisions made here in this House through legislation or by talks between the European Union and the United Kingdom. I am not against having input from Northern Ireland parties, but this is not going to be solved by them sitting down together, because they cannot effect the changes that are needed. That is just a fact of life.

My final point is about the discussion that has emerged over recent weeks and months on changing the agreement to overcome some of the difficulties we have in relation to the operation of the devolved institutions, the north-south bodies, the east-west bodies and so on, and the idea that we can sort this out—as some people crudely put it—by simply removing vetoes or, more precisely, by excluding some people. Northern Ireland operates today, and has for 50 years, on the basis of cross-community consensus for decision-making. There is no such thing as majority rule in Northern Ireland, and there has not been since the early 1970s. The Belfast and St Andrews agreements were both predicated upon a sufficient consensus of unionists and nationalists coming to an arrangement which could carry both communities. Talk of moving on and excluding the unionists is the road to disaster, just as in the period between 2003 and 2007—as has been referred to—when the Assembly was down because Sinn Féin/IRA robbed the Northern Bank and was still out murdering people in the streets and yet wanted to be in government. The Government then rightly said, "No, that can't happen; you have to decommission your weapons", and eventually a form of decommissioning did take place, and eventually it had to support the police. It is unimaginable that people would be in the Government of Northern Ireland without supporting the police and doing these things, but that is what we were expected to accept at that time.

I would be grateful if the Minister could confirm that, going forward, the principle of sufficient consensus—the requirement to have unionist and nationalist support—is absolutely essential both to the operation of institutions of governance in Northern Ireland and for any change there. Anything else would be a severe undermining of confidence and would do a great deal to set back any prospect of getting the devolved institutions restored.

We will obviously have a further opportunity to consider some more practical details when we come to Committee. The Minister looks surprised by that, but there may be some debate—who knows? I look forward to him responding to some of the issues I have raised so far.

4.43 pm

Lord Lexden (Con): My Lords, it is great to have among us another unionist from Northern Ireland—a man who addressed us so well in his maiden speech and brings, as we have heard, a fine record of achievement from his work in the Assembly. Along with all other noble Lords this afternoon, I welcome him most warmly.

In reflecting over the last few days on the matters which are the subject of this debate, I kept coming back to one simple thought: the Government of the United Kingdom have an inalienable duty to provide as effectively as possible for the administration of public affairs in Northern Ireland, as our fellow country men and women there are entitled to expect. That duty must be discharged in all circumstances. Today, as we know all too well, the circumstances are extremely difficult, as they have been on other occasions in the recent past. Indeed, it is an illusion to suppose that difficulties are ever likely to be remote or easy to overcome in the immediate future. There are so many possible sources of strain and tension.

How can it be otherwise when politicians whose fundamental constitutional objectives are diametrically opposed—not just different but in total conflict—have to find ways of coming together to satisfy the terms on which devolved power can be exercised, and so provide the people of Northern Ireland with the kind of government over their local affairs that most of them so clearly want? Back in 1998, few imagined that Sinn Féin would become, and remain, the principal party with which unionist politicians would have to try and co-operate in order to make devolved government work. When I ask myself what I would do as a unionist in such circumstances, I do not find it easy to imagine myself supporting a regime that included Sinn Féin. I greatly esteem fellow unionists in Northern Ireland for their willingness to set aside severe differences in the interests of the people of Northern Ireland as a whole.

Frankly, it is hard to feel confident that the current breakdown of devolution will be the last. That is why Great Britain's union with Northern Ireland needs to be strong and effective, capable of taking the swift decisions that are always going to be required in response to severe difficulties when they arise. The decisions will often tend to cause irritation to one party, one community or another, underlining the need for a strong union that can cope robustly with criticism as it seeks to safeguard the interests of our fellow country men and women in Ulster within the constitutional framework that the majority of them support. That support needs to be enlarged. More young unionists are needed, and more of them from families that have traditionally seen a unionist vote as incompatible with their identity. A strong union that seeks to create a shared future for all the people of Northern Ireland will attract new support for the cause that it embodies.

[Lord Lexden]

This legislation, which is very much in the mould of earlier provisions brought forward to deal with previous difficulties, responds to the latest turn of events in Northern Ireland, which causes the greatest distress to all of us. My noble friend the Minister will, I am confident, want to ensure that the legislation is implemented as successfully as possible during the period that it remains in force. I doubt that anyone understands better than he does how a strong union should operate to the benefit of all parties and all communities in Northern Ireland, not just politically but socially and economically.

This legislation will provide a fresh opportunity for this Conservative Government to demonstrate that its party meant what it said in its 2019 manifesto: we stand

"for a proud, confident, inclusive and modern unionism that affords equal respect to all traditions and parts of the community."

The Conservative and Unionist Party used to refer rather less respectfully to other traditions when it was created 110 years ago through the amalgamation of the Tories and the Liberal Unionists who had deserted Gladstone over his scheme for Irish home rule in 1886, which rode roughshod over the unionist community. Over the years, the party has adapted its position in response to changing circumstances, displaying a fundamental aspect of its character that has brought it much success generation by generation.

For my part, I have one chief regret about this Bill and other pieces of legislation that have been rendered necessary by breakdowns of devolution, which I have mentioned in this House before. They introduce no arrangements to preserve the democratic accountability of the great public services: education, health, housing and social services. All are damaged—in some cases severely, as we heard from the noble Baroness, Lady Ritchie—when devolution falters.

Stormont is Northern Ireland's upper tier of local government as well as its devolved legislature. In that, it is unique. Scotland and Wales have systems of local government as well as devolved legislatures. Why cannot arrangements be devised to enable Members of the Assembly to continue scrutinising public services and working together on behalf of the people they have been elected to serve when devolution is in abeyance? Why should local government functions be deprived of democratic oversight when the devolved powers cannot be exercised because the political parties are in disagreement on matters that are unrelated to local government?

Responsibility for the current impasse in Northern Ireland lies chiefly at the door of one person: Mr Boris Johnson. I criticised him when he was in power and continue to do so. He said there would not be a border down the Irish Sea, and then promptly created one. He presented himself as the person who would restore full sovereignty to the United Kingdom, and then left one integral part of it subject to laws made in the European Union. What kind of unionist is that? The current Government have no more important task than the resolution of the huge difficulty Mr Johnson left them. In the past, the intervention of Prime Ministers has been required to resolve acute difficulties: Lloyd George in 1921 and Tony Blair in 1998. The current Prime Minister should surely consider the case for following their example.

Exactly 100 years ago this month, the legislation granting self-government to 26 counties of Ireland completed its passage through this House. The legislation was introduced by a Liberal Prime Minister of a coalition Government, David Lloyd George. It reached the statute book under his successor, Andrew Bonar Law, a man of Ulster Scots background and the strongest unionist ever to be a Conservative Prime Minister. They could not have imagined the warmth that infuses Anglo-Irish relations today as two sovereign Governments work together as partners. Some say the Irish Government should exercise joint authority over Northern Ireland. It is hard to think of a policy more calculated to increase instability in that part of our country. Bonar Law stood for a strong union, binding Northern Ireland to the rest of our country. His political heirs today should do the same.

4.51 pm

Lord Hay of Ballyore (DUP): My Lords, I start off by associating myself with the Minister's remarks. It will be 40 years tomorrow since the awful Droppin Well bar tragedy that killed 17 people: six civilians and 11 soldiers. Our thoughts and prayers are with the families as they come up to the 40th anniversary of that awful tragedy.

I congratulate my noble friend Lord Weir on his maiden speech. I have no doubt whatever that he will be a huge asset to this House, and I certainly welcome him to the House.

I take no pleasure in seeing this Bill in front of your Lordships' House, but I recognise that the Secretary of State was mandated by legislation to bring forward such a Bill. We are all aware of why we are in this regrettable situation, without a functioning Executive in Northern Ireland. When we had Assembly elections last May, we sought a mandate from the people of Northern Ireland on our opposition to the Northern Ireland protocol: we would not nominate Ministers to an Executive until real action was taken to address the real difficulties created by the protocol. There is no ambiguity around that statement. Why would we nominate Ministers to an Executive where a unionist Minister is required to implement a protocol that has no consent from within the unionist community?

Although limited in nature, the Bill allows the negotiations the space to find urgent solutions to the very real problem that exists as a result of the Northern Ireland protocol. The most disappointing fact of all is that there has been no fundamental progress on resolving the problems at the heart of the Northern Ireland protocol. I see no urgency from the European Union in addressing these issues. We do not know the strategy the Government are using for the talks with the European Union. My understanding is that none of the parties in Northern Ireland has been briefed about where those talks are at. The Northern Ireland parties have almost been pushed aside in these negotiations. That is the tragedy we find ourselves in today.

I have always believed that the decisions that impact on people's lives in Northern Ireland should be made by accountable, local decision-makers. The European

Union's member states must be willing to be flexible when dealing with the very sensitive situation that we in Northern Ireland are in when it comes to the protocol. To date, there has been an unwillingness to be flexible. Equally, negotiations cannot continue forever. The people of Northern Ireland need to see results. For that reason, I welcome the publication of the Northern Ireland Protocol Bill. It should be implemented as soon as practically possible if there is continued inflexibility from the EU negotiators in dealing with these issues.

The noble Lord, Lord Dodds, mentioned briefly the most recent agreement on Northern Ireland—*New Decade, New Approach*—which was the basis on which devolution was restored. Commitments were made by all the parties in Northern Ireland. The one issue that has not been resolved since it was signed is the commitment by His Majesty's Government to fully restore Northern Ireland's place in the UK internal market. This remains an outstanding commitment that has not been delivered—one that formed the basis on which my party signed up to the *New Decade, New Approach* agreement.

As I said earlier, I cannot say that I welcome the Bill to the House, but I recognise its necessity. We have been here before. It is true to say that, in some instances previously, decisions were being put on hold or simply not made. I commend the Government for being proactive in offering relevant assurances so that departments can do the necessary work. The Bill gives civil servants greater decision-making powers to allow public services to function. It also allows the Secretary of State to delay Assembly elections in Northern Ireland, with two deadlines: 8 December, with a further six weeks to 19 January. Clauses 6 to 9 make provisions for creating public appointments. Given the timetable that has been set for the restoration of the Executive and the pace of negotiations with the European Union, is the Minister hopeful that negotiations and the work that needs to be done will be completed by the European Union?

I will touch briefly on MLAs' pay. If anybody in this House believes that reducing MLAs' pay will change their mindset and that of our party, and that we will be rushing to set up an Executive and Assembly—that will not happen. This is a principled stand. Whether it be money, a future Assembly election, or hearing "joint authority" from some quarters, this is an issue of sincere principle regarding where we stand on the protocol. It is nothing to do with money or a future Assembly election. We would welcome the latter: I believe our party would increase our mandate in Northern Ireland. I have absolutely no doubt about that.

I finish by saying that we are a devolutionist party. We want to see a functioning Executive dealing with the issues that matter to the people of Northern Ireland. It would be functioning, were it not for the Northern Ireland protocol. We want to try to find a resolution to this problem. We want the Executive up and running, working for all the people of Northern Ireland, not just ourselves. We have said that in this House on many occasions. The sooner the matters are resolved, the sooner we can get back to a future Assembly.

The EU needs to step up to the mark and resolve the problem. My fear in all this is that the European Union has the future of devolution in Northern Ireland in its hands. I believe that there is only one chance now for the European Union to get it right. Let me say that as a party we will not accept a sticking plaster over the problem any longer or trying to kick the can down the road. That will not work any longer. We want to see real change to the protocol so that in Northern Ireland we can all move on.

5 pm

Baroness Hoey (Non-Afl): My Lords, I add my warm congratulations to the noble Lord, Lord Weir of Ballyholme, on his maiden speech and welcome him as another pro-union voice in this Parliament. I was honoured to be on the same platform as him at an anti-protocol rally some months ago, and his detailed knowledge is going to be needed if His Majesty's Government are to get on with the Report stage of the protocol Bill. I am sure the noble Lord will add his voice to that.

> "We are here today because we do not have an Executive … and we do not have an Executive because of the protocol."

Those are not my words, although I agree with them; they are the words of the Minister of State in the other place when repeating what the honourable Member for Strangford said at Second Reading. The Minister went on to say that

> "the hon. Gentleman is right: that is indeed why we are here."—[*Official Report*, Commons, 29/11/22; col. 861.]

So no one should think that there is any other reason for us having to have this Bill today other than that there is a protocol.

Of course, the Government have no alternative. It is law to bring forward the Bill. I must say that when the Assembly was not sitting for three years because Sinn Féin brought it down, I did not see a mad rush to reduce pay then and other measures. On the salary issue, it is interesting that Clause 10 states that salaries will be restored when a Speaker is put into the Parliament in Northern Ireland. I am not sure whether that is some kind of sweetener to get a Speaker back as quickly as possible. However, I assure the Minister that this kind of monetary incentive, which has been mentioned by other noble Lords, will not work because we in Northern Ireland face a big threat—an even bigger threat than we had before over 30 years of people trying to bomb us and terrorise us. We face the threat of our place as an integral part of the United Kingdom being whittled away by the protocol, and that transcends any monetary considerations.

Last week, I sat for nearly two days in the Supreme Court listening to a government lawyer tell us that Article VI of the Act of Union had been disapplied by the protocol. In the Northern Ireland courts, we heard first that it had been implicitly repealed, and then it went to the Supreme Court, which said that Article VI of the Act of Union had been subjugated by the protocol, and the government lawyer told us that it had been disapplied. I think being disapplied means that it has been broken, and we will hear from the Supreme Court in its ruling, even if it goes along with implying that we in Parliament all knew when we

[Baroness Hoey]
voted—I did not—for the withdrawal Act that we were getting rid of Article VI. We will probably see that judgment in the new year, but it will not make a difference if it rules against it as it is a political battle. It is a two-strand approach to getting rid of the protocol.

I do not fear an election in Northern Ireland as I think pro-union people will be even more determined to come out and vote as they have seen what has happened over the past months. However, the Minister should think about planning, so that council elections are brought forward and are not held on the weekend of the Coronation because, as noble Lords may not know, it would take a long time to count those votes and that would bring us into the Monday of the Coronation. If we are going to have elections, let us combine them and have them on the same day in April.

I do not think that anything will have changed by then as far as the European Union is concerned. Negotiations seem to be going nowhere. We do not get any reports or updates; we just have to listen to selected journalists who have been told what is happening and read the little tidbits put in the newspapers. It seems to me that the EU is still working under the same negotiating mandate, and that is not going to work.

We cannot be left under EU rules. Huge chunks of the retained EU law Bill coming to us will not apply to Northern Ireland; we will be left even further behind as divergence takes place. Let us not forget that the protocol has not yet been fully implemented and we have no idea what will be happening to the grace periods that are ending.

The noble Lord, Lord Bew, spoke of the new technology that the EU has been talking about: this invisible border that we can now have in the Irish Sea. It is talking about technology that will make it all invisible so that it does not matter. Well, if it is invisible at the Irish Sea border, it can jolly well be invisible at the frontier between Northern Ireland and the independent country of the Republic of Ireland that is within the European Union. Technology could work—many people talked about that some time ago—but, if it is to be invisible, it can be invisible where it should have been in the first place.

As has already been mentioned, we are facing the 25th anniversary of the Belfast agreement in April, and President Biden wants to come—to Northern Ireland, the Republic of Ireland and the United Kingdom. That is meant to hit people with the idea that, to get President Biden here, we have to get the Assembly working again; that we cannot possibly have him here if the Belfast agreement is not being properly carried through. But I am not sure many people are that worried about whether President Biden will come or not. He has shown that he does not really—or does not want to—understand the pro-Union community in Northern Ireland, so I do not think that will be a particular influence on getting any changes.

Then just last week—I have to mention this because it shocked so many people—Ursula von der Leyen spoke in Dublin about the years of Ireland being in the European Union and how wonderful it was. She then appeared to liken the IRA to freedom fighters in Ukraine, and likened the United Kingdom to Putin. Your Lordships may say that she did not actually say that, but she certainly spoke in such a way that everyone who listened knew what was going on. How can we in Northern Ireland think that Ursula von der Leyen, as President of the Commission, really has the interests of the Belfast agreement and peace in Northern Ireland at heart when she can go to Dublin and say that?

Finally, let us remember that the Northern Ireland Assembly cannot legislate on so many contentious issues—social security, welfare reform, abortion, legacy and so on. Also, there is this idea that the cost of living will be absolutely solved tomorrow if the Assembly and the Executive are back, but I genuinely do not feel that many people in Northern Ireland waking up every morning, listening to the radio, are thinking to themselves, "I just wish the Executive was back. I just wish we had an Assembly."

We know that most of the changes—and the direction of change—to help people in Northern Ireland, and the money involved, come from the United Kingdom Government. That is what we have to recognise. I know that noble Lords will not want to—indeed, many of my friends in the Democratic Unionist Party will not want to—but we need to face up to the fact that we, here, are the legislature for Northern Ireland and have been so on many issues over a long period of time. We should not try to pretend otherwise.

At least with direct rule, or full integration as I would call it, we did not experience all this stop and start. It may be that we are going to have to look and whether in the long term this kind of devolution in Northern Ireland can actually work. The priority now has to be—I know the Minister and the Government know this—that, if we can put this legislation through in one day as we have for other important issues regarding Northern Ireland in the past, we should get the protocol Bill here for its Report stage as soon as possible, immediately. I am sure noble Lords will not want to amend it too much but, if they do, it has to go to the other place and come straight back here again. The Government have to show their determination that they mean to get rid of the protocol. If we cannot get rid of it by using negotiations in the EU then we have to use the protocol Bill. If we want devolution back, we are going to have to get rid of that protocol. That is the real issue facing us today.

5.10 pm

Lord Godson (Con): My Lords, I share the pleasure of the House in the maiden speech by the noble Lord, Lord Weir of Ballyholme. I should add that I have known him for over a quarter of a century since I was working for the *Telegraph* and I started sniffing around his then discreetly-emerging dissidence from the policy of my late friend Lord Trimble. He was always supremely well-informed even then, if a little too discreet for my taste as a working journalist at that point.

I express appreciation to him for the tribute to my late friend Lord Trimble. It was gracious of the noble Lord to speak in those terms, and of course Lord Trimble himself had to deal with just the kind of temporary extensions and suspensions of the institution during the years 2000 to 2002. Those were sometimes difficult

and vexatious debates in this Parliament and in the Assembly at Stormont, so perhaps by the standards of that period there is more consensus here today than there was back then, which is welcome.

I support the Bill but with a significant reservation. The legislation before us authorises the Minister to put off the calling of an election—an election that, as we have heard, has little to no support in Northern Ireland—by just six weeks. On Thursday this week the Minister will extend by six weeks the deadline for an election to be called. He and the Government hope that by 19 January next year there will have been a negotiated solution. Of course we are all hoping for that, but to what degree is it actually likely? Few believe that it is. There have been a mere 45 working days since the talks restarted last October. Ministers have given little information so far about how those talks have progressed but, for all the improved mood music, there is as yet little sign of an agreement around a solution for the protocol and the current crisis in Northern Ireland.

The six-week extension to 30 working days includes Christmas and the new year. For exactly half of that time, this House will be in Recess. There may well be some progress over these weeks, and let us hope that is the case. The noble Lord, Lord Bew, has drawn attention to some of the positive signs emanating from Dublin, no doubt because of his peerless contacts there with many of his former pupils, who are on the southern side of the border as well as on the northern side of the border, presently here in this House.

However, that all still seems a bit unlikely. It cannot be banked on or taken for granted. We do not even have an outline of what a solution might look like, at least before 19 January of next year. This legislation is legally required. It is entirely correct that the legal basis for that election having been called on 28 October 2022 is addressed, but the most likely outcome is that on 19 January 2023 the Secretary of State will be in the same position as he was just over five weeks ago on 28 October.

Not only must the deal be agreed now between the various Northern Ireland parties, even if they are not involved in all aspects of the deal itself, but we and they will still need to digest whatever is agreed and sound out the grass roots in all communities. It is widely understood that the real date we are working to is, as has been alluded to, the 25th anniversary of the Belfast/Good Friday agreement on 10 April 2023, but even that may come and go without a complete resolution. There are, as the noble Baroness, Lady Hoey, pointed out, council elections in Northern Ireland in May of next year. I would think that the election must be held before, or on the same date as, those elections at the very latest.

As many Members of this House have said, this Bill is most necessary. The limitation on the Secretary of State's ability to postpone an election is well intended and right. What we are debating is whether the timing which it sets for a new election is at all realistic. Is it now in step with the timeframe of the talks being held with the EU? Are the Government boxing themselves in unnecessarily, and can my noble friend the Minister reassure this House whether our concerns about this timetable are in any way realistic?

5.16 pm

Lord McCrea of Magherafelt and Cookstown (DUP): My Lords, I commence by giving a very warm welcome to my noble friend Lord Weir of Ballyholme. I also congratulate him on his excellent speech. I have no doubt whatever that this House will hear a lot more from my noble friend and that we will witness his forensic examination of legislation, so Ministers may not always be so pleased with what he has to say concerning legislation that comes before your Lordships' House.

I acknowledge that the Secretary of State has been mandated by legislation to bring forth the Bill. Like many others in your Lordships' House, I do not wish to be in a position where such a Bill is required. In the other place, my DUP colleagues made it abundantly clear that our party desires to see a functioning Executive dealing with the matters that affect the lives of the people of Northern Ireland.

The Secretary of State said at the introduction of the Bill in the other place:

> "I believe strongly that the people of Northern Ireland deserve a functioning … Executive, where locally elected representatives can address issues that matter most to those who elect them."

However, I remind noble Lords that if anyone thinks that a restored Stormont would somehow have a magic wand to wave at and solve the crisis facing the people of Northern Ireland, including their cost of living problems, they had better wake up and smell the coffee. In reality, we need to remember that the hospital waiting lists that have been extending down the years did so when the Assembly was functioning. The lack of houses being built in Northern Ireland was also happening when the Executive were there. The idea that somehow the answer to all the ills of the people of Northern Ireland is the restoration of the Assembly certainly needs to face reality.

I also remind your Lordships that we should not be deluded because the Assembly can address only some of the issues that matter to the electorate. The Government, aided and abetted by this House, and because of a grubby deal that was done with Sinn Féin, took powers that were granted to the Northern Ireland Assembly to legislate on the most sensitive issue, namely the right to life of the unborn child, out of the Assembly's hands, as they did on the legislation concerning the Irish language. Practically with the stroke of a pen and in defiance of the wishes of the electorate, the devolutionary powers granted to Stormont were pushed to the side. They tagged the most liberal abortion rights on to a Bill that had absolutely nothing to do with the issue.

Northern Ireland has been without an Executive or functioning Assembly at Stormont not because of the unwillingness of any Assembly Member to deal with the many serious, complex or critical issues facing the community in Northern Ireland at this most challenging time but because of the intransigence of the European Union to resolve the Northern Ireland protocol, which strikes at the very heart of who the people of Northern Ireland are. As British citizens, we have the right to be a full and equal part of the United Kingdom and to enjoy the equal privileges of being so. That, in reality, has been denied to us through the protocol.

[Lord McCrea of Magherafelt and Cookstown]

Before the election, no one in Northern Ireland was under any illusion as to where the Democratic Unionist Party stood on the Northern Ireland protocol and what steps the party would take if our candidates were successful in that election. Our leader sat in countless TV studios and did numerous radio interviews, backed up by media articles, to make our position clear. We produced an election manifesto stating clearly that the DUP would not nominate Ministers to an Executive until decisive action was taken to clearly address the grave difficulties created by the Northern Ireland protocol.

There was no ambiguity on the part of the Democratic Unionist Party. Those who want to criticise the party for fulfilling its election manifesto can do so and continue to do so. However, it will not change the principled stand the party decided on and brought before the electorate. When it stood on that manifesto, it meant it. It asked the people to give it a clear mandate. Let me make it abundantly clear that the DUP will not be driven, cajoled or whipped into breaking faith with its electorate.

The Government and European Union are aware that, until they effectively deal with the underlying issue of the Northern Ireland protocol, there will be no going back to Stormont. The Northern Ireland protocol is a clear and brutal breach of the Belfast and St Andrews agreements. In the other place Mr Julian Smith, the MP for Skipton and Ripon, said:

"I realise this is a debate about Executive formation, but Executive formation in Northern Ireland comes from protocol renegotiation, and protocol renegotiation comes from the EU having some amnesia about its views on the Conservative party position on Brexit and moving forward in the best interests of the citizens of Northern Ireland."—[*Official Report*, Commons, 29/11/22; cols. 818-34.]

Every day, the protocol does harm to Northern Ireland's position and place within the United Kingdom. That may not mean much to many, but thousands of people have died and are left with life-threatening injuries because of the democratic will of the people of Northern Ireland to cherish their British heritage and not yield to the bloodthirsty IRA terrorists who roamed our streets for over 30 years. Even the authors of the Belfast agreement have been betrayed by the Northern Ireland protocol. The late Lord Trimble stated:

"Make no mistake about it, the protocol does not safeguard the Good Friday Agreement. It demolishes its central premise by removing the assurance that democratic consent is needed to make any change to the status of Northern Ireland".

The *New Decade, New Approach* document committed the United Kingdom Government to restoring Northern Ireland's place in the United Kingdom's internal market. That meant that there should not be regulatory barriers to trade on the movement of goods that travel between Great Britain and Northern Ireland and remain in the United Kingdom. Article 6 of the Act of Union gives the people of Northern Ireland the right to trade freely with the rest of this United Kingdom. That is being denied to the people of Northern Ireland today. Although that commitment was made in 2020, we will soon, God willing, be in 2023, and that commitment has not been delivered on.

Like my colleagues, I welcome the publication of the Northern Ireland Protocol Bill, but where is the urgency in getting it on the statute book? Indeed, many in your Lordships' House want to park it, rather than swiftly process it. I state categorically: do that if you will, but engaging in such action only ensures that the 25th anniversary of the Belfast agreement will come and go without a functioning Executive.

It is also appropriate to state that, if the United Kingdom Government and the EU think that they can cobble together a makeshift agreement that does not meet the seven tests set down by the unionist community in the Province, they are sadly mistaken and their scheme will abysmally fail. The people of Northern Ireland were used as pawns in the trade-off between our Government and the EU in the Brexit negotiations, and that wrong must be put right. This Conservative and Unionist Government cannot be permitted to sell out the fundamental building blocks of this historic union to placate, appease or please the European Union.

Proposing this legislation, the Secretary of State said that it was a stopgap Bill—but how long the gap is will be determined by the actions, not the words, of our Government and the European Union. He also stated that he intends to act rapidly to amend Assembly Members' salaries, yet he does not seem to have the same urgency when it comes to getting the promised £400 energy payments or the £200 heating oil payments into the hands of the people of Northern Ireland—why is that? It was promised that the £400 would be received before the Christmas period, but it is now evident that the delaying of these payments is linked to the use of political leverage. No one should use fuel poverty payments as a political pawn. In the midst of the rising cost of living, the Government's failure to deliver the payments received by the rest of the citizens of the United Kingdom demands an urgent investigation.

The Secretary of State is exercised by the deep financial hole he has found in Stormont's finances, under the stewardship of a Sinn Féin Finance Minister, and is threatening that measures must be taken to fill it. Yet, at the same time, he is pressing full steam ahead with providing whatever finances are necessary for abortion—but none for cancer treatment or other major health issues. We can certainly see where the priorities lie.

I see that the Bill also grants civil servants powers to make key public appointments. Could the Minister assure me that it would be possible to ensure that the unionist community will have its fair share of those appointments, rather than appointees being only from the nationalist, republican or Alliance groupings? Over recent years, we have witnessed that few from the Protestant community have received major appointments or chief executive positions throughout Northern Ireland, whether in private or in public bodies. Fair employment legislation seems to work for only one community, and that can no longer be overlooked.

In conclusion, I have stated that my party wants to see devolution work, but it must be on the basis of equality for all. Political stability will proceed only when there is consent across the political divide. The genuine demands of unionists can no longer be swept

aside at the whim of any Government, and to move forward means respect for the integrity of the United Kingdom and Northern Ireland's place within it.

5.29 pm

Lord Kerr of Kinlochard (CB): My Lords, I join all those who have spoken in warmly congratulating the noble Lord, Lord Weir, on his admirable maiden speech and welcoming him to the House, even though his arrival means that the border between the Cross Benches and the DUP is even more crowded—fortunately, cross-border relations are very good. I have no intention of being tempted into responding to some of the things said about the protocol in this debate with which I disagree rather profoundly, and I suspect that the noble Lord and I will be crossing swords on the matter in future. I made a firm resolution that I would talk about the Bill only and not about the protocol, and, as noble Lords can tell, I am not even mentioning the protocol, despite gross provocation from, for example, the noble Baroness, Lady Hoey.

It is a very unfortunate Bill; I regret it, but I support it. I regret it on constitutional grounds; we should not be passing retrospective laws and I very much regret that it confers on the Secretary of State power to legislate by a statutory instrument which we will not even see before it takes effect. This seems to be very wrong, but the admirably clear Northern Ireland Office memorandum explains that we are where we are and that we have little choice. I was grateful for the letter from the noble Baroness, Lady Drake, which also makes that pretty clear. So we are where we are, and we have to pass the Bill.

I regret it because I regret the situation which has led to its necessity. Those who voted in the Northern Ireland Assembly elections were entitled to see both a working Northern Ireland Assembly and an Executive. It seems that it is not right that their choices are being put to one side.

I also regret it because, as a former civil servant, I have deep sympathy with the plight in which senior officials in the Northern Ireland Civil Service as going to find themselves as a result of this Bill. The noble Baroness, Lady Hoey, pointed out that we are not in an unprecedented situation, but the economic and financial situation in Northern Ireland is much more complicated now than it was when this situation last obtained. Particularly in the health and education sectors, there are very serious problems which will have to be dealt with without political control, political steer and political decision-making. I feel very sorry for these civil servants; were I one of them, I would find this situation really quite difficult. However, we are where we are and, therefore, with regret, I support the Bill.

5.33 pm

Lord Bruce of Bennachie (LD): My Lords, first, I join others in welcoming the noble Lord, Lord Weir, his maiden speech and his participation in the House. I am absolutely certain that we will hear a great deal more from him, with his detailed knowledge of Northern Ireland, and I think that the House will appreciate the contributions he can make. So I bid him welcome.

All of us are saying that we do not like the Bill or where we are, but we have to support it. However, we are all also saying that not only are elections not a solution but they will not be a resolution. So, in a sense, it is a very odd situation, where elections are not the issue of democracy; it is delivery that people are looking for. Most people would argue that all the indications suggest that an election would not bring about a very significantly different result, so we would not be any better off.

Nobody can be in any doubt whatsoever that the DUP, and indeed other unionists, are highly exercised by and oppose the protocol; they believe that it has to be either removed or dramatically altered. That is clearly understood; it would be very difficult to listen to this debate and not appreciate that. Frankly, I find it unacceptable that this is an argument that Northern Ireland politicians—Northern Ireland Assembly Members—cannot resolve because they have no power over it whatsoever. Not being there does not get us anywhere near a resolution of their perfectly legitimate concerns, but it leaves the people of Northern Ireland without effective governance. The DUP should be prepared to accept that their argument about the protocol, legitimate as it is, should not really justify not making the democratic process in Northern Ireland function.

The other thing I wanted to say—

Baroness Hoey (Non-Afl): I thank the noble Lord for allowing me to speak very briefly. He says that the protocol and going back into the Assembly are completely separate, but does he not understand that a DUP Minister, or another Minister, has to implement the protocol in lots of ways? Would he want to do that: implement something if he really did not agree with it?

Lord Bruce of Bennachie (LD): Frankly, Ministers have to do that all the time; we see them having to explain themselves in the House. The point that the noble Baroness is making is perfectly valid in the sense that Governments have to implement the laws under which they operate. However, the challenge I put back to her is that the people of Northern Ireland need to have their day-to-day problems addressed, and that is not happening. The question is: how legitimate is it to put those everyday issues which matter to the people of Northern Ireland above or below the needs of the protocol? I am not arguing that the protocol is not an issue; I am suggesting that it is not a justification for being where we are.

The Minister, in his introduction, explained that this is not a situation he relishes or wished to be in. We all understand that, but I am slightly concerned about the deadlines. The first deadline is this Thursday, and the second is 19 January. It has been said by numerous speakers in this debate that there is very little evidence of an active negotiation to try to get some kind of resolution. So my concern is that, by the time we get to 19 January, the Minister will come back and say that he will have to introduce another Bill to extend it even further. We need to know where the active process of trying to address these issues is. There does not seem to be enough urgency or engagement to try to secure an outcome.

[Lord Bruce of Bennachie]

In that context, I say in passing that the talk about penalties and salaries, again, does not change anything; it has been done before. It has been argued, of course, that the overwhelming majority of Members of the Assembly wish to be there, yet they are going to have their salaries cut, in spite of the fact that they are not the cause of the Assembly not meeting. The Government say that any kind of discrimination would be legally very difficult.

Before continuing, I make it clear—I have it on record; I just checked it myself—that I have consistently criticised Sinn Féin for their refusal to deliver the Assembly. So I certainly do not take sides on this: no party should stop democracy functioning, as I said at the time.

We have a situation where there are a growing number of people in Northern Ireland who regard some of these debates, important as they are, as much less important than the cost of living crisis, the energy crisis and the fundamentals of day-to-day life which are not being adequately addressed by their representatives. The fact that the cash to help for fuel bills is being delayed has already been mentioned. I do not know whether it is because of intransigence, but I believe that had we had an Assembly, this probably would have been addressed on the same terms and timescale as everywhere else in the UK. This is really fundamental: of the people who are desperately worried about whether they can afford to heat their house—coming from Scotland, I know how cold it can be in the north—and are worried about their energy bills and the cost of living, I wonder how many of them say, "Please resolve this political issue", rather than, "Please sort out my energy bill and help me with the cost of living; why aren't our local politicians doing that?"

We have debated the outcome of the protocol in the protocol Bill; therefore, I do not wish to take more than a minute on this subject. The DUP keeps talking about the conditions that have to be met, but, as far as I can see, they are asking for irreconcilable conditions—that there should be no border between Great Britain and Northern Ireland and no border on the island. We had that when we were in the EU, but now that we are out of the EU, I do not see how it is possible to have no border, given where we are at. I accept that Boris Johnson signed this in a hurry for political reasons in an election, called it "getting Brexit done" and an "oven-ready" deal—it was none of those things—and knew perfectly well that it did not do what he claimed it did. He has absolutely dumped us in this; he has left us with this mess. Nevertheless, resolving it will require some degree of checks of balances. The questions are: how limited can they be, how acceptable can they be, and can they be done in a way that makes life practically constructive for the Northern Ireland economy and the people of Northern Ireland?

There is a more fundamental difficulty: Northern Ireland, being in the single market, is inevitably subject to EU rules which, because we are not a member of the EU, we no longer have a part in shaping. I am not sure how we can resolve that, because that is the deal that we have signed. If we simply suspended the protocol, which is what the legislation wants to give the Government the power to do, we would not just be suspending the protocol; we would be tearing up our treaty on exit from the EU. The whole of the UK economy would then be in a very parlous state, being not only outside the EU but in economic conflict with it.

What concerns me is the way people can say, "We have to have this, this and this", without recognising the inherent contradictions in those supposed conditions. For example, when the DUP says that it had a mandate at the last election and will have a mandate if there is another election, it is not a mandate that is within the DUP's power to deliver. That is really the point that it needs to address.

We now have legislation—clearly, we cannot carry on past the deadlines without legislation—but this cannot go on indefinitely. People are suffering, which is why the extra powers in the Bill are necessary to ensure that the basic day-to-day decisions that are urgently needed will happen, but not in circumstances that are democratically accountable or even properly transparent.

If power-sharing means anything, it absolutely requires a degree of consent, but it also requires co-operation and compromise. If that is not forthcoming, it does not function and it is not democratic. If the DUP is absolutely uncompromising in its unconditional refusal to accept some degree of compromise—I agree that it is entitled to ask about the negotiations so it can see what is going on—and is not prepared to accept that, what would it accept? If it is nothing that can be delivered by the UK Government or the EU, it will have to recognise that reforms that are compatible with the way Northern Ireland is governed and with the Good Friday agreement would become irresistible. That is something it needs to consider.

5.43 pm

Lord Murphy of Torfaen (Lab): My Lords, it is always a great pleasure to follow the noble Lord, Lord Bruce. He talks enormous common sense, and that, of course, is what we want in a debate on Northern Ireland. But as your Lordships have witnessed over the last two and a half hours, it is not always easy when dealing with Northern Ireland issues. It never will be and it never was, but that does not mean to say that we cannot solve this issue. It is a question of how determined the political parties in Northern Ireland are and how determined the Government and the European Union are.

Before we come to that, I very much want to welcome the noble Lord, Lord Weir, who made a quite outstanding maiden speech. He made it, as your Lordships will recall, without a single note in front of him, with great fluency and, above all, with great experience and wisdom collected over the past 20-odd years, which is roughly the time I have known him. It is a great privilege to be able to speak in a debate with him. We all welcome him to our deliberations, not just on Northern Ireland but on wider issues.

The noble Lord, Lord Weir, rightly referred to his and my noble friend Lord Trimble. The noble Lord, Lord Godson, paid a very good tribute to our mutual friend; he also wrote an extremely good and unique biography of Lord Trimble, which is probably one of the finest blow-by-blow accounts of the negotiations

in 1998. We all miss Lord Trimble. I have not had the opportunity properly over the past few months since he died to pay tribute to him. He was undoubtedly a giant—there is no question about that. All of us miss him personally. I miss him for the chats we used to have on classical music and all sorts of other things. It is perhaps unusual to think that a Welsh-Irish Catholic had such a unique relationship with a Northern Ireland Protestant, but it worked extremely well. We all miss him.

As many have said, we accept the Bill in front of us but we do not welcome it. There is nothing to welcome about it at all, because it reflects the dreadful situation in Northern Ireland at the moment, which has to be addressed; the Government have to do something about it. The effects of having no institutions in Northern Ireland—whether they be the Assembly or the Executive, or the north-south and east-west institutions—are really dramatic. I cannot quite agree that the institutions, or the lack of them, would make no difference in this current economic climate. I think they would. The fact that Wales has a Senedd that deals with the economic and social issues in front of the people of Wales, and that people in Scotland have the Scottish Parliament in Edinburgh, means that solutions to problems can be geared according to the way that they think the people of Wales and Scotland would react to them. Of course the people of Northern Ireland should expect representatives to be able to deal with these hugely significant issues in a very special Northern Ireland way. It is not right to say that the absence of the Assembly or the Executive is meaningless. It is hugely significant to the well-being of the people of Northern Ireland.

The issues raised by former heads of the Northern Ireland Civil Service over the last few weeks are valid. When, a couple of years past, we had to introduce legislation to allow civil servants to take decisions in the absence of elected representatives, it was a different world; now, the civil servants have to institute cuts and reductions in services. What mandate do they have to say that that should be cut there or that this should be cut here? That is a political decision that should be made by politicians, so I actually feel very sorry for them; they should not be put in that situation. But what is the option? Government has to go on, and that is the best but least worst option at the moment.

I agree entirely with the late Lord Trimble and the noble Lord, Lord Dodds, when he says that the issue of consent is absolutely crucial to the success of the Good Friday agreement and the St Andrews agreement. There has to be consent across the board, but that also means the consent of nationalists too, whose views on the protocol are different from those of unionists, as my noble friend Lady Ritchie made absolutely clear. The violation of the agreement—which is the case with regard to the lack of consensus—is there, but so is the violation of the agreement in not having the institutions. There should be institutions in Northern Ireland because they were set up by the Good Friday agreement and the St Andrews agreement. That is equally a violation of those agreements. But telling each other that everybody is violating everybody else in a sense is not going to answer the problems that we have in front of us.

At the time of the creation of the protocol, which was drawn up as a result of the decision to leave the European Union, there was no functioning Executive or Assembly for the whole of that period. Had there been so, it would have been for the Northern Ireland politicians to resolve how to deal best with Brexit. As it was, the issue was rushed, it was hurried and it was poor, and it was not accepted. One of the reasons for that was that, on that occasion, Sinn Féin decided that it did not want to ensure that there was an Executive and Assembly in place. Had there been so, would it have been different? I think it would have been. That is why the issue of talks in parallel is important.

The noble Lord, Lord Dodds, rightly said that, ultimately, this is to be resolved only between the European Union on the one hand and the United Kingdom on the other. But I believe that the Irish Government could play a different role than they have in the past, by looking at the detail of any discussion. But that has to be done in parallel with negotiations or talks between the Northern Ireland parties on how to deal with the issue.

If there were a functioning Executive, they would not have been left out. They would have talked about it and they would have dealt with these issues. I still think that there is an opportunity for that to happen, but it cannot be done in seven weeks. That is absolutely the case. Frankly, I think it is a bit daft putting in a deadline of seven weeks; I just do not understand the logic behind it, at all. There is Christmas in between so, for at least two or probably three weeks, nothing—but nothing—will happen. Of course it will not—it is Christmas. These negotiations and talks will not really start until the second week in January. Are we really saying that two or three weeks will resolve the enormous issues which we have just been talking about for two and half hours? Of course not.

I urge the Government really to think a bit more about that 19 January deadline. Unless it is a clever ruse—which I do not think it is—I rather suspect that it needs to be rethought. George Mitchell put in a clever ruse: he said that 10 April 1998, Good Friday, would be the deadline and that, if we did not get there, he would go home to New York. It worked, but there was a much longer period in between, and—this is the point—there was a proper, more effective talks process. The problem we have had over the past nine months is that there has not been any process; there has not been a process nor any negotiations, as far as I know. It is all secret; that is what we are told. No one knows what is happening. We are told they are "technical", but I do not have a clue what that means. What is a "technical negotiation"? I assume, though I do not know, that they are talking about electronic devices to work out how the protocol works, but I doubt that is what it is.

There is not sufficient transparency about the detail of the negotiations. You cannot have a blow-by-blow account of what happens every day, but there should be some idea of whether people are talking to each other. Are Ministers talking to each other? Are civil servants talking to each other? Are experts talking to each other? Are Northern Ireland people talking to other Northern Ireland people? We do not know; no one tells us.

[Lord Murphy of Torfaen]

There is an opportunity between now and Christmas to devise a plan and to decide on a timetable and a structure so that, when we all come back in the second week in January, we will know what exactly is being negotiated, where they are negotiating, who is doing the negotiating, and how it links with negotiations in Belfast and in Brussels and London. There is no evidence that anything has happened over the last eight months.

It must begin to happen properly; it must not drift. The great danger in Northern Ireland is always drift. You can drift into violence; you can drift into a vacuum; you can drift into a position where nobody wants the institutions any more because it is all too difficult, and so we all go back into our respective corners. That is not the answer. The answer is that there should be proper negotiations after Christmas, so that we all know what is happening, if not the detail. That 19 January deadline should be fiction. I also think that Parliament should be kept informed on a formal basis every couple of weeks about what exactly is happening.

I hope that, when he winds up, the Minister will be able to address some of those issues and some of the important matters that have been discussed in the last two and a half hours.

5.53 pm

Lord Caine (Con): My Lords, I thank the House for the quality and spirit of the debate that has taken place over the last few hours. To some of us in your Lordships' House, it emphasises and underlines the important role that this House retains in our constitutional arrangements. The contributions this afternoon have shown a great degree of interest in and constructive consideration of the contents of the Bill, and indeed a real passion to move Northern Ireland forward. In that spirit, I thank the noble Lord, Lord Murphy of Torfaen, as always, for his very sensible, wise and constructive comments; I also thank the Liberal Democrats and the noble Lord, Lord Bruce of Bennachie, in the same spirit.

I add to those who have congratulated the noble Lord, Lord Weir of Ballyholme, on his outstanding maiden speech. I thank him in particular for his kind words, along with those from the noble Lord, Lord Murphy of Torfaen, about our late noble friend Lord Trimble, who was rightly described by the noble Lord as a giant of Northern Ireland politics. I think that I have in the past described him as probably being up there in the unionist pantheon with Carson and Craig as one of the great leaders of unionism in Northern Ireland. I thank both noble Lords for their comments. I apologise for highlighting that I might have a better knowledge of some of the public houses of Ballyholme than the noble Lord who is from there, but I assure him that I will keep supporting the local economy with friends in that respect.

I repeat what I said at the outset, and what many noble Lords have said in the course of the debate: no Government would want to be in the position in which we find ourselves today. It is highly unsatisfactory that the Northern Ireland Assembly and Executive are not functioning properly and doing the job that we would all expect them to do. For the avoidance of doubt, and as somebody who worked for previous Secretaries of State, I can tell noble Lords that we made exactly the same criticisms in the period between 2017 and 2020, when it was Sinn Féin holding up the Executive; there is no inconsistency in our approach to those matters. Like noble Lords across the House, we want to see the institutions restored at the very earliest opportunity and we are working diligently to try to ensure that this happens. As I say, it is clear from noble Lords' contributions that they share that desire.

I will address one point raised by the noble Lord, Lord Dodds of Duncairn, in response to a point made by the noble Baroness, Lady Ritchie of Downpatrick, around reforming the institutions. I have been involved in this for quite a long time now, and I stand by the ground rules for political talks that were established back in 1996. They make it clear that changes to the governance arrangements and institutions in Northern Ireland do indeed have to proceed on the basis of sufficient consensus; that requires the support of parties representing the majority of unionists and the majority of nationalists. Any future recommendations for changes, such as the noble Baroness, Lady Ritchie, put forward about joint First Ministers, would always have to be judged in that context and against that background.

I am pleased that the House recognises largely that the Bill is a necessary if regrettable step—as the noble Lord, Lord Kerr of Kinlochard, described it—that we need to take so that the UK Government can ensure the continuance of governance arrangements in Northern Ireland. A number of noble Lords, in particular the noble Lord, Lord Murphy of Torfaen, and the noble Baroness, Lady Ritchie of Downpatrick, referred to the necessity of all-party talks at the current time. Like the noble Lord and noble Baroness, I have been through many talks processes in Northern Ireland over the years—some successful and others, regrettably, less so. The Government are committed to continuing very close dialogue with each of the parties. We will judge, when the time is right, whether that needs to move forward on the basis of bilateral discussions or whether it needs to be in a multilateral format; we will judge what is the right format at the appropriate time. But I take on board what the noble Lord said about the need for a plan in this respect.

I will respond to some of the other points raised during the debate. Unsurprisingly, in a debate about the Executive formation Bill, the Northern Ireland protocol loomed large because, as many noble Lords, particularly those on the DUP Benches, made abundantly clear, the principal reason why no Executive is up and running is the Northern Ireland protocol. I was very grateful to the noble Lord, Lord Bew—I should call him my noble friend—for a number of the suggestions he put forward as to how things could move forward. I want to take away his suggestions and discuss them with colleagues back in the department.

The noble Lord referred to the importance of strands 3 and 2 of the agreement. That is extremely important. It is common for people to look at the Belfast agreement through the strand they prefer or to which they are most attached. That has been characteristic of some in the European Commission in the past, regrettably. It is

clear that the Belfast agreement is a three-stranded agreement in which all the strands are interlocking, and all need to function alongside each other properly. I am very grateful to the noble Lord for making that point clear.

The noble Lord also talked about what he described as "skulduggery" across the border, which has always been with us. He made some suggestions in that respect. I remind him that the 2015 fresh start agreement, in which I was involved, did indeed establish a cross-border joint agency task force to deal with some of the issues to which he referred. I believe that is functioning quite satisfactorily at the moment.

Unfortunately, I will have to disappoint a number of noble Lords when it comes to the protocol. We have debated the protocol Bill extensively in your Lordships' House in recent weeks. As a member of the Bill team, I sat through all four days in Committee. Where I would agree with the noble Lord, Lord Murphy, as I have said in the past, is in his very valid point that we suffered from the lack of a Northern Ireland Executive in the period after 2016. I well remember the joint letter in the summer of 2016 that Martin McGuinness, as Deputy First Minister, and Arlene Foster—the noble Baroness, Lady Foster, as she now is—as First Minister signed, setting out an agreed Executive position. Northern Ireland suffered quite considerably from the lack of an Executive in the period between 2017 and 2020.

Sadly, I will disappoint a number of noble Lords by not being able to go into a great deal more detail at the Dispatch Box as to the status of the negotiations and discussions that are taking place, other than to reiterate that, as noble Lords know and as was set out extensively in Committee on the protocol Bill, it has always been our preference to resolve the issues, which we accept do need resolving—there is no question about that—through talks with the European Union. The Foreign Secretary and Vice-President Šefčovič are speaking regularly and UK government officials continue to have talks with their counterparts in the EU.

When I talk about solutions to the protocol, I reassure noble Lords who raised the commitments in *New Decade, New Approach* that one of the objectives of the UK Government is, of course, to ensure that Northern Ireland's position within the UK internal market is fully respected and upheld. There should be no doubt about that. No doubt we will return to these matters in much greater detail at a date to be determined at some point after Christmas.

The noble Baroness, Lady Hoey, referred to the court case in the Supreme Court that she has been sitting through. We await its judgment in the new year with some interest.

My noble friend Lord Lexden referred to the need for a stronger union, in a speech that I think was in the best traditions not only of him but of somebody he and I would describe as a mentor on Northern Ireland matters, the late TE Utley, the great and wise Tory seer. If I can give my noble friend one piece of reassurance, he kindly referred to the Conservative manifesto from 2019, which I confess to have playing a small part in. The first sentence of the Northern Ireland section states that, as Conservatives and Unionists, the preservation of a secure and prosperous United Kingdom is our overriding goal.

My noble friend raised possible joint authority between London and Dublin, which has been raised by some in recent weeks. Again, to reassure him, our position is very clear: the Belfast agreement allows for two constitutional options for Northern Ireland. One is as part of the United Kingdom, the other is as part of a united Ireland on the basis of consent. It does not provide for a third way or in any way create a hybrid state in Northern Ireland; it is either wholly in the UK or wholly in a united Ireland. Therefore, joint authority would be totally incompatible with the provisions of the Belfast agreement. This Government will not countenance any constitutional provisions that are incompatible with the agreement, such as joint authority. That should be an end to the matter.

A number of noble Lords referred to the timetable set out in the Bill. I appreciate their concerns around that. Clearly, we hope that the time period afforded by the legislation will create the space required for talks on the protocol to make some progress but, in response to the noble Lord, Lord Bruce of Bennachie, and my noble friend Lord Godson, it is not and never has been our intention to create an indefinite or undefined extension to the Executive formation period. Obviously, I cannot predict what might happen over the next few weeks or months, but it would not be appropriate to have an open-ended delay to that deadline in the legislation.

The noble Lord, Lord McCrea of Magherafelt and Cookstown, referred to a number of issues. In particular, I will mention energy support. I think he said that the Government were preventing support. That is very much not the case. There are differences between the energy markets in Northern Ireland and Great Britain. There are also differences in the capacity of supply companies that operate in Northern Ireland compared with some of those operating in Great Britain. We are absolutely determined to get that money and support to people in Northern Ireland at the earliest opportunity. I think my honourable friend the Minister for BEIS said in the other place last week that he was very hopeful that we could get this money to people by January, but there is absolutely no intention on our part to delay, or anything of that nature. We are absolutely committed to helping people in Northern Ireland and ensuring that they are not disadvantaged vis-à-vis the rest of the United Kingdom. I hope that goes some way to reassuring the noble Lord on that point.

The noble Baroness, Lady Hoey, talked about the dates of the local elections. She will be aware that, under Section 84 of the Northern Ireland Act 1998, the Secretary of State has the power to change the date of the elections. We will consider the timing of local elections in Northern Ireland in respect of the date of the Coronation in due course. We have a short period in which we can come to a decision on that—but I do understand her points.

If I have missed anything of major significance, as always, I will commit to writing to noble Lords, but in conclusion, I have said many times that none of us

[Lord Caine]
wishes to be in this position. We all wish to see the institutions established by the Belfast/Good Friday agreement; that has the support of the overwhelming majority of Members of this House and, I believe, the other place. We want to see all those institutions up and running and functioning, and Northern Ireland largely governing its local affairs in a local Assembly through its local, democratically elected politicians. In our view, that is the surest way for a strong, stable, prosperous and increasingly shared Northern Ireland within, I hope, the United Kingdom. That is our objective. In the meantime, the Bill is a regrettable necessity.

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

Viscount Younger of Leckie (Con): My Lords, as announced by my noble friend the Chief Whip last week, Members now have one hour—so, until 7.12 pm—to table amendments. We will now take the Question for Short Debate in the name of the noble Lord, Lord Goddard. Committee on the Bill will start at a time to be shown in due course on the Annunciator.

Great British Railways and Rail Services in the North

Question for Short Debate

6.11 pm

Asked by ***Lord Goddard of Stockport***

To ask His Majesty's Government what assessment they have made of the impact of their decision not to introduce a new Transport Bill on (1) the establishment of Great British Railways, and (2) plans to improve rail services in the north of England and Northern Powerhouse Rail.

Lord Goddard of Stockport (LD): I begin by thanking all noble Lords who are about to speak in this important debate, the Minister who will reply and the Library for its background notes. The transport Bill was intended to improve transport across the UK, deliver cleaner, safer services and enable more innovation. It would provide a new body, Great British Railways, with the powers it needed to act as a single national leader for railways. Can the Minister assure this House that legislation will be brought forward in the next Session—that is, 2023—to ensure this happens? Without Great British Railways, the future of our railways cannot move forward in a joined-up and cohesive manner.

Noble Lords may be surprised to hear that tonight I am not going to rant and rave about Avanti trains, no matter how tempting that might be. However, I will ask the Minister some questions later. I hope the House will also agree that my contribution will not be just another northern whinging exercise—far from it.

The north is proud of the giant steps we continue to take to deliver a comprehensive, integrated transport system. Genuine real-time integration of buses with trams and trains is enabling commuters to get to the new jobs being created, offering new opportunities for businesses to expand and grow, and allowing people access to much-needed green spaces and countryside. A successful rail service is vital to delivering those objectives. In Greater Manchester, 65% of journeys are still made by car and this is not helping our decarbonising agenda, which is another strategic objective.

These are a series of interconnecting plans to give the public and business the greatest chance of recovering from the pandemic and at the same time improve the quality of life for all our people. Despite everything, including massive disruption, train usage is rising faster in the north than in any other region. Of course, funding is the key to any improvements and comparing funding for the north with that for the south must make difficult reading for any compassionate Government committed to levelling up. London has seen £19 billion for Crossrail and £6 billion spent on subsidising London Underground during Covid, to name but two. Compare that spend with any other region in the country, never mind the north, and noble Lords will see our frustrations.

I shall ask the Minister four questions regarding northern railways. First, will the Government permit train operators negotiating freedoms to resolve rest-day working so a reliable services can be restored with immediate effect, especially in the vital pre-Christmas and new year period? Secondly, will the Government consider publishing a public assessment—in mid-January, for instance—of whether Avanti West Coast and TransPennine Express, both run by the same company, are delivering on the promised service restoration? For the avoidance of doubt, Avanti has promised, from 11 December, three trains an hour from London to Manchester without fail. Thirdly, will the Government, with immediate effect, place TransPennine Express on similar notice if, as with Avanti, its December timetable is not delivered? If they fail, both should be stripped of their contracts. Sooner or later, the Government must act. When will the Government bring forward legislation for the reforms set out in the Keith Williams report 18 months ago, which will bring track and train, profit and loss, and revenue and costs together, enabling meaningful devolution to combined authority mayors?

Everyone agrees that the railway needs investment and modernising, and increased investment has a price to be paid. We know that modernising may mean fewer people and different working conditions, but have we learned nothing from the 1970s and 1980s? Head-on confrontation benefits no one, and the people who suffer are the usual suspects—the hard-working general public. Surely, the role of government is to govern: is it too much to ask, in 2023, to have a functioning, reliable rail service for the UK?

6.16 pm

Lord McLoughlin (Con): My Lords, I thank the noble Lord, Lord Goddard, for securing this debate and I draw attention to my entry in the register of interests as chairman of Transport for the North. I endorse what the noble Lord said about the importance of the railway industry and the railways right across the north. I think everybody accepts that the service provided at the moment, be it by Avanti, TransPennine Express or Northern Trains, is not the kind of service we need and require. I say "need and require" because if we talk about the importance overall of the northern

powerhouse and the service, the most important thing to anybody who relies on public transport is reliability, knowing the train is going to be there. What is being suffered at the moment, with cancellations the day before and on the day, is basically undermining the confidence of commuters and the passenger/traveller right across the region.

I wish my honourable friends and the new Secretary of State, Mark Harper, every success—I met Mark and said that one of my most enjoyable times was as Secretary of State for Transport. The interesting appointment is not just that of the Secretary of State, but that of Huw Merriman as Rail Minister, because he comes with special knowledge, having for the last three years chaired the Transport Select Committee. Indeed, I gave evidence in the early stages of my appointment as chairman of Transport for the North on the integrated rail plan, which was published by the Transport Select Committee around last May. It is a first-class document, it had first-class ownership in the then chairman of the Transport Committee, and I wish him well now in adapting what he said as chairman of the Transport Committee and putting it into action.

There is no doubting the economic impact of the current dispute and the problems across the region. I hope a way forward can be found, because one has to be forthcoming. I accept what the noble Lord, Lord Goddard, said about investment in other parts of the country, but we have seen investment in the railways; we have seen vast investment. Indeed, back in 1992, some 700 million journeys a year were made on our railways. The last year before the pandemic, it was some 1.9 billion, and that has been a revolution—I put it as strongly as that—in what our railways were providing. What we are now going back to is a time when people regard the railways as unreliable, and if they are unreliable, people will not use those particular schemes.

Part of the problem with transport is the long time it takes for big infrastructure changes. That does not mean that we cannot see changes that happen much more quickly, but some of the longer-term issues, such as building HS2, need long-term solutions. We are now well under way as far as that is concerned; it has been planned since 2009, publicly at least, and now one can see that infrastructure taking shape as far as its development is concerned.

But there are other congestion spots on the system that need to be addressed, not least Leeds station, which is now responsible for something like a third of the delays in the country. A long-term commitment is required to address some of the issues as far as Leeds is concerned. There was undoubted disappointment regarding the lack of a new station as far as Bradford is concerned, and I very much hope that, with the things that were in the Transport Select Committee, these issues will be addressed.

In the very few seconds that I have got left I would just like to place on record my great thanks to Liam Robinson, who has been chair of the Rail North Committee since 2015, and has been excellently involved in pushing forward that agenda. He has now taken on a new role; he has become leader of—

Lord Davies of Gower (Con): Can I ask the noble Lord to complete his speech?

Lord McLoughlin (Con): He has now become leader of Liverpool City Council, so, having taken on a fairly controversial job, he now has an even greater challenge. So, those are some of the issues which are faced as far as transport is concerned, and I wish my noble friend well in her challenge ahead.

6.21 pm

Lord Snape (Lab): My Lords, like the noble Lord who has just spoken, I am grateful to the noble Lord, Lord Goddard, for the opportunity to say a few words today; I hope the Government Whip will be as generous with my time as he was to the last speaker. The noble Lord, Lord Goddard, said this was not going to be a whinge about Avanti Trains. Well, that is fine: he can leave that to me. I promise that it will get an honourable mention during the four minutes available to me.

There are a few things that unite TransPennine Express with Avanti Trains: the ownership for a start. They are both owned by FirstGroup and they are both on similar contracts—contracts which I have said before in this House are virtually cost-plus, so whether they run trains or not they are paid. Indeed, they get a bonus from the department from time to time for running trains, although they cause widespread dissatisfaction among their passengers—in particular so far as Avanti Trains are concerned.

The noble Baroness will say during the course of her reply, in her normal, helpful way, that "All will change with the new timetable". Well, I will just remind her that the new timetable is six days away; what is happening today on our railways as far as these two companies are concerned? On TransPennine Express there are no less than 70 cancellations and alterations this very day, six days before this new timetable is about to start.

Regarding Avanti Trains, I have had three phone messages today: two cancellations, and one late running, so far as trains between Birmingham and London are concerned. The fact that both cancellations are due to what is called "shortage of train crew" does not exactly fill me with hope that in five days' time they will be miraculously transformed, and we will get the three trains an hour between London and Birmingham that we were promised—and the noble Lord, Lord Goddard, will get three trains an hour between Manchester and London as well. I do not think that the omens are particularly good for what will happen from Sunday onwards, so I hope the Minister can come up with a better response—I know it is not her fault, I know she is not the Rail Minister—than we have had recently.

The fares that are charged these days should not go unnoticed. This Government talk about carbon capture and reducing carbon. Those who participate regularly in these debates about the railway industry will be aware that I have spent some time working on the railway myself; I have probably bored both Houses over the years with some stories. It was unheard of in the 1950s, 1960s and 1970s when I worked on the railway for a passenger train to be cancelled; now they are cancelled as a matter of course. There was a two-hour gap this very afternoon in trains between

[Lord Snape]
Birmingham and London thanks to Avanti Trains. I was in such a temper that I threw away the question that I was going to ask last Thursday to detail the shambolic journey that I had between Birmingham and London as recently as that; I asked to see a manager and I am still waiting.

The management do not answer letters: in fact, they deny receiving letters from Members of this House. There is no management at Birmingham International. Indeed, the booking office has been closed and there is no way of buying a ticket after 10 o'clock—and we are told that the necessity to recoup revenue is essential so far as the running of our railways is concerned.

I refer to my own railway experience: it is exactly 50 years since I was a booking clerk at Macclesfield. The first class return fare from Macclesfield to London was £7.50. If the Minister and I took a train these days from Macclesfield to London at 8 am, the return first class fare would be £360.20; that has not gone up with inflation, it has flown through the roof. This is a Government who have refused to increase taxes on motoring for 14 years, and yet we see what has happened with the railway industry.

By coincidence—I will close on this as I do not want to take as long as the previous speaker—my stepson and his partner are in Tenerife at the moment. They have paid £360 each for a week in Tenerife, all-inclusive in a three-star hotel. Now this is advisory, not an invitation—I do not want to be referred to the Standards Committee at my time of life—but the Minister and I, instead of going to Macclesfield and paying that sort of money, could have had a week in Tenerife, all-inclusive. The rail fare structure is nonsensical, and the service is even worse.

6.26 pm

Lord Shipley (LD): My Lords, I thank my noble friend Lord Goddard for tabling this debate. As he said, we need a single, national leadership for our railways. The present crisis on the rail network is unacceptable for those trying to travel, it is damaging to our economy and it needs resolution, as the noble Lord, Lord McLoughlin, said a moment ago.

It is the job of government to intervene in the case of market failure such as this, and the current dislocation cannot have come as a surprise, since too many trains depended on drivers working on their rest days—a dangerous business model. But I want to pay tribute to LNER, which also operates in the north of England—and we should note that it is of course nationalised. LNER has managed the dislocation of strikes in an impressive way. In my experience it has planned well and communicated well with passengers, and I personally have had little trouble in travelling in recent weeks, although the strikes have certainly been inconvenient. Promises have been made about driver training by some of the underperforming operators. I would like to ask the Minister whether she could tell us whether there are actually enough drivers now being trained by Avanti and TransPennine Express?

In the levelling-up White Paper, mission 3 states:

"By 2030, local public transport connectivity across the country will be significantly closer to the standards of London, with improved services, simpler fares and integrated ticketing."

To achieve this needs the full Northern Powerhouse Rail plan, which was reconfirmed by Liz Truss when she was Prime Minister, after being downgraded by the previous Prime Minister. That plan included the reopening of the Leamside line in Durham as a freight diversionary route which would free up train paths on the east coast main line and thus route capacity. It is a very important investment opportunity, and I would welcome anything positive the Minister can say about this proposal which would bring substantial benefits to the network. The current Prime Minister has since downgraded the full Northern Powerhouse Rail plan when, I submit, it is essential if levelling up is to mean much.

The Tyne and Wear Metro system has been very important since its inception nearly 50 years ago. There is a proposal to link Washington to the Metro system to create the Washington Metro loop. This proposal was formally launched by Transport North East last month and has reached the first stage of a business case. I very much hope for government support for the next phase of the work needed for such an extension. Together, the Leamside line and the Washington Metro loop would be a significant gain for the economy of the north-east, and I hope that they can be supported.

Finally, cancelling the eastern leg of HS2—assuming that is the final decision—will have very serious implications for Yorkshire and the north-east of England because private sector investment for development will follow the new HS2 track. If the track stops, developer investment will be much more difficult to attract across much of the north of England, hence smaller but important projects at a more local level will matter to the more distant parts of England from London.

6.30 pm

Baroness Jones of Moulsecoomb (GP): My Lords, I congratulate the noble Lord, Lord Goddard. He said that this is an important debate, and it is, because the Government are doing something a little bit naughty—which is, of course, not uncommon. I will concentrate on the first part of the Question: the establishment of Great British Railways without a transport Bill. I do not see how this can operate, so I am very concerned that the Minister should answer a few questions about the practicality of the whole endeavour.

What assessment have the Government made of the financial impact of delaying the switch from passenger franchises to operating contracts? Presumably, that will be a factor in the Minister's reply. Are the contracts cheaper, for example? Is there a cost to the delay? If the Government are going to implement some of the Williams review recommendations early—pending legislation—will that include clear targets for Great British Railways, as envisaged? For example, are greenhouse gas targets, or perhaps disabled access targets, going to be included?

The situation absolutely puzzles me. Great British Railways needs new powers—for example, for fares and timetables—but the Secretary of State does not have them. Which bits of this can the Government do without legislation? How on earth are we going to hold anyone to account, if not through this House? It seems to me that the Government have given the excuse of not being able to find parliamentary time for

not bringing a transport Bill forward. I use "excuse" because that is not a reason. I can offer several Bills that really ought not to have been put through already or could be delayed without harming anything. In fact, some would offer a considerable improvement—for example, the retained EU law Bill could be shelved and a transport Bill brought in.

It seems to me that the Government are in complete chaos over this issue. It is a good idea to bring in Great British Railways, but this cannot be done without accountability or very clear legislation. Please can the Minister explain which bits we are going to have, which bits we are not going to have, how we are going to hold everybody to account and, of course, how much it is going to cost?

6.32 pm

Lord Scriven (LD): My Lords, I also congratulate my noble friend Lord Goddard on this important and timely debate. We are not asking for a lot for the sixth largest economy in the world and the place that gave the world the railways. We just seek a train service that is affordable, comfortable and reliable so that we can get to work, school or business meetings on time, and move from town to town and city to city without feeling that we are in a tin of sardines, squashed and squeezed. It is unacceptable that, in 2022, in the north of England, we are not able to do that, with all the social, economic and environmental consequences that has for so many people, businesses and communities. The 2019 Conservative manifesto promised a "transport revolution"—believe me, there are many rebellions daily in the train stations of the north of England because the Government have failed to bring about any stirrings of significant change, never mind a revolution.

Good train connections are the lifeblood of modern and successful economies, and poor train services are a drag on social mobility and economic improvement. Some 60 to 100 trains a day are cancelled by two of the major operators in the north, but these are just reported cancellations, because a trick—the P notification route—is used. P cancellations are meant to be used in exceptional circumstances, but TransPennine Express uses them all the time. If it cancels a train before 10 pm the previous evening, it is not reported as a cancelled train. Cancellations of trains in the north were therefore underreported by over 1,000 in the last month by TransPennine Express alone. Will the Minister commit the Government to stopping this loophole?

It is no good union-bashing; these issues are caused by an unsustainable business model. You cannot run a sustainable train service that relies on people's good will to drive trains on their rest days or do overtime. Will the Minister commit to getting the train operators to stop this ridiculous way of working and to have a business model that means a named driver is allocated to all timetabled trains? If not, why are the Government allowing these train operators to continue with their contracts in this way?

Investment is required. While £18.9 billion was spent on the Elizabeth line in London, I note that last year's integrated rail plan reduced capital investment by £36 billion, most of which was in the north. As the Northern Powerhouse Partnership pointed out, £24.9 billion of that reduction was in the north. This will affect cities such as the one I am proud to call home: Sheffield. With 560,000 people and £15 billion in GDP, home of two world-class universities and sitting centrally on the north's east-west train corridor, it is blighted by poor rail services. It takes you longer to get to places such as Hull, Liverpool, Huddersfield and Manchester Airport from Sheffield than it does to fly from Manchester to Paris.

Talking of Manchester Airport, it is absolutely scandalous that Sheffield has had its direct train service to its major international airport taken away. That was done sneakily by TransPennine Express during the height of the Covid pandemic. There is no direct train service between the fourth largest city in England and its major international airport—does the Minister think that that is acceptable? Does she think it helps economic growth? What will the Government do to ensure that TransPennine Express reinstates this valuable and vital service?

We want a rail service fit for the 21st century in the north, not this terrible, expensive and unreliable shambles we have now.

6.37 pm

Lord Liddle (Lab): My Lords, when I read the Williams review, I thought it was a very well-considered document. I would like to ask the Minister a number of questions about services affecting the north and my own home area. What is the real reason for the delay in not going ahead with the Great British Railways proposal? Is it legislative time? As others have pointed out, we have had a lot of pretty useless Bills, which are totally unimplementable, going through this place at great length, such as the asylum and immigration Bills, and all sorts of others that people could cite. Is legislative time the reason, or is it that the Treasury, having realised how much overspending has occurred, particularly in London, as a result of Covid, simply wants to find a way of keeping the transport budget within bounds by cutting back on future investments which were once promised?

On Avanti trains and TransPennine Express, can the Minister tell us firmly what her timetable for a decision on these franchises is? If there is no improvement, when will she act? I do not see any evidence of improvement in my own journeys to and from the north. What I see, from London to Glasgow, is virtually every other train being cancelled, and the trains that are left being packed out. Who financially benefits from this? Does the operator benefit from it? Do the Government? Will she make a statement on how the finances of the chaos in these franchises actually work out?

The Government do not appreciate the economic damage that this chaos produces. In recent years—the past decade or two—we have had a lot of people come to live up north in Cumbria on the basis that they can run a consultancy business, which involves regular travel a couple of days a week probably to London, Birmingham or other parts of the country. However, this model of living in a nice place in the north and occasionally going to see your clients in the south just does not work if we do not have an effective train service. People will give up on it. That is a worrying development.

[Lord Liddle]

Finally, since George Osborne in 2011-12, the Government have talked at great length about the northern powerhouse, getting on with the east-west link and all that, but what is actually happening? When will contractors start on building something new to link our great northern cities together? I fear that what we need is not a lot of talk but some action. We are not getting any decisive action by this Government.

6.41 pm

Baroness Randerson (LD): My Lords, this has been an excellent short debate. I thank my noble friend Lord Goddard for introducing it; this is a very important issue.

My noble friend asked four specific questions, all of them requiring action from the Government. That is what we have been lacking. I am aware that an awful lot of questions have been asked of the Minister. I will add to that number. I urge her to be specific in her answers and write to us, because she will not have time to answer all our questions but the answers need to be on the record. We do not want vague assurances.

My noble friend Lord Scriven referred to an important issue that has an impact on the Government's jet-zero strategy. The Government are relying on airports becoming carbon-neutral in the near future, yet a cut has occurred to the train line between Sheffield and Manchester, reducing the carbon efficiency of Manchester Airport. That hurts at a time when the Elizabeth Line has just opened up a third way of getting to Heathrow by train and Luton Airport has just had a new rail link costing £260 million.

The noble Lord, Lord McLoughlin, referred to the economic impact of the state of the railways in the north. The noble Lord, Lord Snape, referred to the fact that we take cancellations for granted. The Government blame Covid for the cancellation problems but Covid affected all train operating companies and not all of them have the same bad record as TransPennine and Avanti West Coast. I travel on Great Western on a regular, weekly basis. I do not want to tempt fate, but cancellations are rare there. The staff are extremely well trained, pleasant and helpful. I would say that the difference is in the management and its quality.

I say to the Minister that it is therefore rather insulting that Avanti, for example, has continued to get its performance payment despite cancelling more trains than any other operator. TransPennine, Northern and Avanti trains have an appalling record on cancellations. The issue I asked the Minister about last week, of which she was unaware—the loophole in the way in which cancellations are made—was referred to by my noble friend Lord Scriven. It is important that the Government look again at the way in which cancellations are dealt with and reported because, at the moment, they are understated as a result of the way in which they are allowed to be reported. My noble friend Lord Shipley made a valuable contribution about the importance of the railways to the economy of the north.

There was a glimmer of hope for improvement with the Williams-Shapps review but that seems to have flickered and died. Several noble Lords referred to the importance of implementing that review. Can the Minister tell us when we can expect legislation—indeed, if we can expect legislation—to introduce its recommendations?

6.45 pm

Lord Collins of Highbury (Lab): My Lords, I, too, thank the noble Lord, Lord Goddard, for initiating this important debate.

The confusion surrounding the future of Great British Railways is a symptom of the problems facing passengers around the UK. Each month, almost 18,000 Northern Rail services are now lost, with everyday disruption becoming the norm on UK railways. At the same time, £12 million in dividends is approved to under-fire operator Avanti West Coast in what is clearly a reward for abject failure. Will the Government finally put Avanti West Coast and TPE on a binding remedial plan to restore services, with clear penalties including withdrawal of the contract?

Unfortunately, as noble Lords have pointed out, this chaos is part of a wider problem resulting in part from poor transport connectivity, which is now costing the north £16 billion per year in lost growth. Like the noble Lord, Lord Scriven, I was appalled by Saturday's *Guardian* article highlighting the practice of train operators making pre-emptive cancellations by 10 pm the night before, which are not counted in government statistics. The worst offender is TPE, of course. Louise Haigh, the shadow Transport Secretary, demanded that the Government close this loophole and begin withdrawing contracts from failing operators. Will the Minister undertake to do this, particularly with this scandal continuing?

Will the Minister now commit to delivering infrastructure fit for the century ahead by building the transformational Northern Powerhouse Rail project in full? Without Great British Railways, the industry has no direction or leadership on the future of rail. The delays to legislation, paired with the delays to the update of the rail network enhancements pipeline, is creating more and more uncertainty.

I conclude by echoing the comments and questions from the noble Baroness, Lady Jones of Moulsecoomb. What estimate has the Minister made of how much this delay in setting up GB Railways is going to cost the taxpayer?

6.48 pm

The Parliamentary Under-Secretary of State, Department for Transport (Baroness Vere of Norbiton) (Con): My Lords, I am grateful to the noble Lord, Lord Goddard, and other noble Lords for their contributions to the debate. It has been another opportunity to discuss rail services, which I am always grateful for. Every time, I learn a little more and have a few more things to take back to the department. I apologise at the outset that noble Lords have not yet received the letter relating to a meeting with the Rail Minister. I can absolutely guarantee that it is in train; we are just trying to sort out diaries. I will then ensure that noble Lords can raise all their concerns directly with him, because there are a number of concerns about services that I have already fed back but am keen for him to hear directly from noble Lords.

I want to loop back to the title of this debate, which is about the decision not to introduce a transport Bill in the current Session. I assure the noble Lord, Lord Goddard—indeed, all noble Lords—that our work on rail continues apace. The Government remain committed to rail reform and continue to analyse the numerous and detailed responses from the summer's consultation. We are committed to and focused on providing high-quality rail services throughout the country, particularly in the north of England where noble Lords have highlighted and identified recent changes. Finally, we remain committed to our plan to invest billions of pounds in rail infrastructure across the north and the Midlands, which includes the Northern Powerhouse Rail core network.

Turning to rail reform, in his plan for rail White Paper, Keith Williams set out the challenges facing rail—well, the challenges facing rail at that time. Life has changed quite significantly, because since then we have had a pandemic, the impact of which has been twofold. There has been Covid scarring on travel patterns: leisure has come back pretty much to where it was before, but business travel has not. The railways and passenger needs look different now.

The pandemic also affected training for train drivers and similar members of staff, and that has had an impact. It takes a very long time to train a train driver. The figure of 18 months is in my mind, but I am not entirely sure that is right. It is not weeks but months and months and months. Also, if train drivers want to change routes after a period of time, they have to retrain. That has been another issue; they have been unable to retrain on different routes during the pandemic.

It is right that in the face of that—and given the lack of parliamentary time for what is, I will not lie, quite a substantial Bill—we have chosen not to introduce it in the current Session. But we are using that time appropriately. To loop back to where we started—the White Paper, with input from the Government—those were proposals. Over the summer, there was significant and substantial consultation, which I believe closed in August. We received a large number of detailed proposals and responses to that consultation. If there is one thing I want to be able to do when I take the transport Bill through, it is to look noble Lords in the face say that we did ask industry and passenger groups and make sure that our proposals had been fully tested. Therefore, I am unable to answer all the questions about GBR relating to the costs and delay. To a certain extent, GBR is still in formation and under development. We are still looking at what it will do, what it will not do and how it can provide the guiding mind between track and train that was envisaged.

However, that does not mean that nothing is happening. The GBR transition team is already looking carefully at one of the key elements of the White Paper—the long-term strategy for rail that looks at a 30-year vision. Noble Lords will have seen our call for evidence on the new rail freight growth target. Noble Lords may also have heard me talk about the audit of more than 2,000 stations, looking at their accessibility. That work has continued, and we are making progress on modern digital ticketing options such as pay-as-you-go and national flexi season tickets. All these reforms can happen without legislative underpinning. We are very keen to put the legislation in place, but that does not mean that nothing has happened in the meantime. We continue to focus on reforms.

I heard yet again noble Lords' many concerns about services. I am terribly disappointed and very sorry for the services currently happening on Avanti, TransPennine Express and, to a certain extent, Northern. We are well aware of them. We are hearing the concerns and holding those train operating companies to account for the things that are within their control. As the noble Lord, Lord Collins, noted, we have in place a remedial plan with Avanti. Frankly, Avanti is on probation. It has a contract, which will end in April. If it is unable to up its game, it will not have that contract renewed.

As I set out at the start of my speech, one of the primary causes of the recent problems has been the shortage of train drivers, both to work a standard roster pattern and those who choose to take on overtime to deliver a seven-day railway. On the first issue, increasing the number of train drivers, we are working to address that. Through the Rail North Partnership, the department is working with Transport for the North and collaborating with operators and northern leaders to establish a northern rail academy. This will be a multilocation training academy to offer the skills and opportunities needed for a career in rail. The noble Lord, Lord Shipley, mentioned this. We are focused on improving the routes through for people who want to become train drivers.

Rest-day working, or overtime, has formed part of the railway industry for decades. Drivers can earn significantly more, and it is voluntary. They do not have to do it, yet they do. At TPE, under the rest-day working agreement that recently came to an end, a driver would get 1.75 times their standard salary and a minimum of 10 hours—I would go to work for that. That is clearly a significant boost. I would not want to turn around and say that rest-day working or overtime would be completely banned. I am not wholly sure that the drivers would necessarily want that, but I am keen to work with drivers to understand how the train operating companies reach an agreement that is right and not over-reliant on that. As we have seen at Avanti, where rest-day working has been withdrawn—the drivers are volunteering not to do it—the service has had significant difficulties. At TPE the situation is different. The rest-day working agreement has fallen away and the unions have chosen not to put the TOC's proposals to their members, such that they could see whether they want to put the rest-day agreement in place. Then, of course, they could volunteer to do that or not; it is their choice. Nobody is forcing anybody to work on their rest day.

Noble Lords will have heard me talk previously about Avanti West Coast and its trials and tribulations. We expect a significant timetable uptick in December. Unfortunately, there will be some strikes after that uptick, which means noble Lords may not see the sorts of changes I would expect. However, let us focus on that timetable change. There will be significant changes to the timetable in the north. Some of these deliver the Manchester Recovery Task Force plan. Indeed, many of the services to and from Manchester take into account the Castlefield corridor. It is very congested at

[Baroness Vere of Norbiton]
the moment, which has required some changes to services. These were put in place by the Manchester Recovery Task Force, which decided—I am so sorry to the noble Lord, Lord Scriven—that the direct service from Sheffield to Manchester Airport should not be maintained. The Government have plans to enhance the infrastructure around Manchester, which will alleviate that congestion. At that point, of course, we will be able to see many more services to and from Manchester Airport.

The noble Lords, Lord Scriven and Lord Collins, and the noble Baroness, Lady Randerson, mentioned this issue about loopholes. I took that back to the department and will write in more detail about how it works. For the time being, I can say this: train operating companies have a contractual obligation to flag any changes they make to a timetable to the Transport Secretary in good time. Delays and cancellations are adverse to passengers and business. DfT factors in all cancellations when assessing operator performance. Key to all of this must be communications with passengers. It must not be the case that there is some sort of incentive to do something at short notice that could have been done with more notice to passengers.

I will briefly speak on infrastructure. I am very conscious that I have not answered all the questions. My noble friend Lord McLoughlin said that infrastructure and rail enhancement is a long-term game. As a Transport Minister, that is probably one of the most frustrating things. Also, for what is often many years before a spade goes into the ground, one has to do all of the approvals processes, et cetera. That means it sometimes feels like nothing is happening—but things are happening. The Government are committed to the integrated rail plan and the core northern powerhouse network. We will look at other programmes on an adaptive approach to see which investments are or are not working.

The Leamside line and the metro to Washington are much more local projects. The noble Lord will be aware that the Government are in discussions with local leaders about the city region sustainable transport settlements. We believe that those sorts of enhancements should fall within that type of spending, such that it is led by local leaders according to local priorities.

The Government remain committed to a modern seven-day railway. We recognise that there needs to be legislative change to achieve everything we want from the White Paper. However, we also recognise that people had some very significant views and gave some good responses to the consultation. It is right that we use this time to re-look at those responses and ensure that whatever legislation we bring before your Lordships' House is right.

We are committed to improving services. We will have a change in December. Many noble Lords mentioned performance fees and dividends. Neither of those related to the period in which we have seen these cancellations: they were for previous periods. Publication of performance fees for the most recent periods will be coming very soon. Noble Lords will then be able to see the implications.

I remain grateful to the noble Lord, Lord Goddard, and all noble Lords. I will write with further answers to the questions.

Lord Scriven (LD): Before the Minister sits down, and for the record, she said that the change to the Sheffield to Manchester Airport service was due to the work undertaken by the Manchester consortium. Is it correct that the discussion and public consultation was jointly by that organisation and the Department for Transport, and that the department was therefore privy to the decision taken?

Baroness Vere of Norbiton (Con): Yes, absolutely. The Manchester taskforce that I referred to consists of the Department for Transport, the train operating companies, Network Rail, Transport for the North and Transport for Greater Manchester. As you can see, it is a mixture between the Government, local government, train operating companies and Network Rail. There is congestion in the Manchester area, and we would obviously hope to reinstate those services as we can, but clearly some prioritisation had to be made.

7.02 pm

Sitting suspended.

Northern Ireland (Executive Formation etc) Bill

Committee

7.25 pm

Clause 1: Extension of period for making Ministerial appointments by six weeks

Clause 1 agreed.

Clause 2: Power to extend period for making Ministerial appointments by a further six weeks

Amendment 1

Moved by ***Lord Bruce of Bennachie***

1: Clause 2, page 1, line 15, leave out "19 January 2023" and insert "a date set out in regulations by the Secretary of State"

Member's explanatory statement

This amendment gives the Secretary of State discretion to set a later deadline for the filling of Ministerial offices.

Lord Bruce of Bennachie (LD): My Lords, I rise to move the amendment in my name. My noble friend Lady Suttie would have been here, but she is recovering from Covid, so the Committee is stuck with me for the duration. I am glad to say that she is well on the way to recovery.

This amendment was tabled by our Alliance Party colleague in the other place. The feeling, which has been expressed by the noble Lords, Lord Murphy and Lord Godson, is that the timescale is tight to the point of being unrealistic. If the Minister honestly believes that we could get a scenario where, let us be clear, the DUP would be willing to engage and come back because there was sufficient progress by 19 January, nobody would be more pleased than me, these Benches and probably the whole House, but if not, it will mean that the Government have to come back and introduce another Bill. I genuinely think that it would be helpful for the Government if they gave themselves the space not to have to do that.

The only other thing we want to say is that while all this is going on, whether now or subsequent to 19 January, what information will the Government make available in the public domain on decisions that have been taken in Northern Ireland by civil servants for people to be aware of them? What information are the Government prepared to share in broad terms about negotiations that may be taking place and whether all-party talks could be initiated?

The purpose of this amendment is to create the space for the Government to get where we all want them to go on the basis that the deadline seems unrealistically tight. I beg to move.

Lord Murphy of Torfaen (Lab): My Lords, I understand the reasoning behind this amendment. We touched on it in the debate a couple of hours ago with regard to the deadline. It is very tight. I cannot honestly think we will actually achieve much between now and then because of the Christmas period.

I hope we will, but one of the problems that these negotiations face is that there is more than one government department dealing with them. If the Foreign Secretary and his team are dealing with it, then the Northern Ireland Secretary and his team are dealing with it from only a secondary point of view, whereas in reality they are equally important. Could the Minister enlighten us not only in response to the amendment in the name of the noble Lord, Lord Bruce, about the deadline, but about the nature—not the detail—of the negotiations? If we have a Foreign Office team looking at the protocol here and the Northern Ireland Office team looking at the situation in Northern Ireland there, do they meet? Do they talk to each other? Are they in direct communication with each other about the implications in those negotiations?

7.30 pm

As I have said in the House many times, my view is that, in sovereign nation terms, the NIO and the Irish Government know more about Northern Ireland than any single country in the European Union, and it is important that that sort of detail is brought through during the course of negotiations. So I would be grateful if the Minister could let us know the state of negotiations, how his department liaises with the Foreign Office on these matters and some indication about timescale.

The Parliamentary Under-Secretary of State, Northern Ireland Office (Lord Caine) (Con): My Lords, I am grateful to the noble Lord, Lord Bruce of Bennachie. I echo what he said about his colleague, the noble Baroness, Lady Suttie. She texted me this morning; she is apparently on the mend and we hope to see her back in her place very soon.

The amendment in the name of the noble Lord, which was also discussed in the other place, would, of course, remove the end of the second six-week extension to the Executive formation period. As the noble Lord set out, this would essentially amount to an indefinite extension. As my honourable friend the Minister of State at the Northern Ireland Office said in the other place, and as I said at Second Reading in the wind-up, it is not and never has been the intention of this legislation to create an indefinite or undefined extension period for Executive formation. In our view, that would be neither democratic nor fair.

The House will recall that, earlier this year, Parliament passed the Northern Ireland (Ministers, Elections and Petitions of Concern) Act 2022, which I took through this House. That legislation amended the period for forming an Executive after an Assembly election as applied by the Northern Ireland Act 1998. Given the Government's desire to allow space for progress in talks with the European Union on the protocol, this Bill creates a short, straightforward and defined extension to that Executive formation period, which builds on the defined six-week period set out in the Act to which I have just referred. In our view, we cannot simply dispense with that legislation at the earliest possible opportunity; it is legislation that, I remind the House, was contained in commitments made in the *New Decade, New Approach* document of January 2020.

I am deeply aware that the previous political impasse in Northern Ireland dragged on for three years. I have previously in your Lordships' House described that period as a particularly frustrating time in my life—something that is shared by a number of colleagues who are sitting behind me on the Democratic Unionist Party Benches and, indeed, by the noble Baroness, Lady Ritchie of Downpatrick. We are determined that that period, which dragged on for three years, cannot happen again. Indeed, it is what the provisions of the Northern Ireland (Ministers, Elections and Petitions of Concern) Act and *New Decade, New Approach* sought to prevent. We are clear that, given the present challenges, Northern Ireland needs locally elected and accountable Ministers as soon as possible. As we have heard throughout proceedings today, the measures in this Bill are a temporary stopgap, and we cannot allow a situation where that remains indefinitely the case.

Regarding the noble Lord's other points, I will reflect on what he said. Some of the issues to which he and the noble Lord, Lord Murphy of Torfaen, referred are not directly matters for me. I can assure the noble Lord, Lord Murphy, that, of course, the Northern Ireland Office liaises with the Foreign Office. As we promised to do in Committee on the protocol Bill, I will take away the comments of both noble Lords to see if there is a way that we can give more information to your Lordships' House as the discussions proceed. On that basis, I would urge the noble Lord, Lord Bruce, to withdraw his amendment.

Lord Bruce of Bennachie (LD): I thank the Minister for that response. I understand it, and I genuinely wish him well: that is a very tight timescale and I hope he can be successful. I repeat that I will be surprised if we are not back here before the end of January, but I appreciate his response, particularly about trying to keep us informed. I know he said that in good faith, and we look forward to hearing how he might be able to do that. With that, I beg leave to withdraw the amendment.

Amendment 1 withdrawn.

Clause 2 agreed.

Clauses 3 to 15 agreed.

House resumed.

Bill reported without amendment.

Arrangement of Business

Announcement

7.37 pm

Viscount Younger of Leckie (Con): My Lords, it may be helpful to the House if I say that the Report stage of the Bill will be taken after the Statement.

Energy Security

Statement

The following Statement was made in the House of Commons on Tuesday 29 November.

"With permission, Mr Speaker, I will make a Statement on energy security. Over half the gas we use in this country is imported. A third of all our energy comes from other countries. Each click of the thermostat and every flick of the kettle sends our money abroad. We are lucky that we have access to secure supplies and strong alliances, but while the price of energy is dictated by the whims of international energy markets, it will be hard to release ourselves from the grip of high bills ushered in by Putin's brutal invasion of Ukraine.

The solution is energy sovereignty. We have the ability to generate our own energy here in the UK. We need only look at our renewables to know we are already doing this rather well, but it is time for us to do more: to bring energy home; to clean it up; to reduce our reliance on dirty, expensive fossil fuels; and to create a thriving, secure and affordable energy network. We will use the might of our many brilliant engineers, experts and innovators to build a system fit for the future.

As I mentioned in Questions earlier, yesterday I was in Suffolk where, thanks to government investment, the development of the Sizewell C nuclear plant has been given the green light. It will generate not only cleaner, cheaper, low-carbon electricity for the equivalent of 6 million homes, but 10,000 jobs during construction and thousands more in the supply chain. This is the first direct stake a Government have taken in a nuclear project since 1987, and it is the first step on the ladder to long-term energy independence. This has been long awaited, and to boost the nuclear industry further we will work fast to scope and set up Great British Nuclear. With GBN we are aiming to build a pipeline of new nuclear projects beyond Sizewell C where they offer clear value for money, and we will make announcements on this early in the new year.

It is not just nuclear, of course: in order to strengthen our energy sovereignty we must look to our natural resources. This island is, as students of Shakespeare will know, a 'fortress built by Nature', and we are utilising that which nature has bestowed upon us—the howling winds of our coastlines, the crashing waves of our sea, and the radiant sun across our land—to create green, clean, cheap energy at home for us.

Those industries are booming, providing jobs and growth up and down the country. In fact, earlier this month, the country hit a truly historic moment, when our onshore and offshore wind farms provided more than half the UK's electricity. Furthermore, the National Grid reported that on that day all our renewable energy combined provided 70% of the country's overall electricity needs. However, we need low-carbon back-up for those days when the wind is not blowing and the sun is dimmed, which is why I have put the Energy Bill back on track. It will fire up our nascent hydrogen and carbon-capture industries by providing new business models and liberating private investment. The Bill will hammer into place the high-tech solutions we need to produce our own energy.

Even after record government support for household and business bills, the British people need us to take bold action, and the war in Ukraine, combined with sky-high energy prices, has put a spotlight on the importance of energy efficiency. Our ambition is to reduce energy demand by 15% by 2030. That will be backed by £6 billion in cash between 2025 and 2028, coming on top of the £6.6 billion we have already spent during this Parliament.

The majority of British houses are, thanks to their Victorian builds, rather draughty. Our energy performance certificates did not really bother the estate builders of the 19th century, which is why our ECO+ scheme will help households install insulation, saving them hundreds of pounds off their bills each year—money they can spend elsewhere to grow the economy.

Energy sovereignty is now within our grasp. Clean, affordable energy for households and businesses is not a pipe dream; it is a project we have now embarked upon. Building new energy networks will create jobs; producing our own renewable energy will keep bills low; and as businesses and households are relieved of the pressure of crippling bills, the economy can flourish and grow. Energy is coming home."

7.37 pm

Lord Lennie (Lab): My Lords, I thank the Minister for the Statement that we are discussing now. The key announcements in the Statement—the green light for Sizewell C and the return of the Energy Bill—are both overdue, but better late than never, and we welcome both. Nuclear must play a role as part of the balanced pathway to net zero, as the Climate Change Committee says, and we on these Benches support new nuclear projects, so it is about time that the Government finally gave Sizewell C the go-ahead. The reports a month ago that it was being put under review were very worrying after a decade of government dithering, so we are pleased that this has been put to bed.

We also welcome the return of the Energy Bill, which of course should never have been paused while Conservative Party infighting took precedence over national need. We look forward to picking up where we left off next week. Given that this is the second Government since it was paused, my first question is: can we expect any government amendments to the Bill when it returns?

As for the third announcement in the Statement, on ECO+, a drive towards energy efficiency is needed but in reality, at the current rate of installation, the 19 million

homes below energy performance band C will not reach that level until the next century—yet this announcement gives neither extra resources to fix that nor any indication of how it will change. Perhaps the Minister can elaborate a bit further and offer some reassurance here.

While we are on energy efficiency, it is one of the best ways to reduce reliance on fossil fuels, but the Government have failed on that over and again. Household energy bills are £1,000 more as a result, and earlier this month we had another reheated announcement with no new resources for energy efficiency. When are the Government going to get a grip on this issue?

As ever, the real problem with the Statement is everything that is not in it. New nuclear and Sizewell C in particular are indeed positive steps, but they are just one part of the pathway to net zero. They simply must be accompanied by a sprint for cheap, clean, homegrown renewables, yet all that we have seen recently instead is another round of government infighting, this time on onshore wind.

Just this week, new research from the ECIU has found that if the moratorium on onshore wind had not been put in place in 2015, turbines could have built to power 1.5 million homes through this winter, reducing the reliance on gas enough to heat more than half a million extra homes. The research also estimated that this will be costing £800 million on bills this winter, so why have the Government not yet cleared this up?

Unless the Minister answers that the Government will finally act in the national interest and end the ban, I am sure his argument will be that it is just up to local consent. But RenewableUK warned this weekend that a planning rule means that renewed permission must be sought from local authorities for every onshore wind farm after an initial 25-year lifespan, with at least two coming up for renewal next year. So we could see existing onshore wind farms starting to disappear, at a time when we desperately need more. It says that the UK could lose 2 gigawatts of capacity by 2032 because of this—more than 14% of the total from this energy source. So when will the Government finally bring the consenting regime in line with other infrastructure?

There is one more thing on onshore wind. In the other place on Tuesday, the Business Secretary suggested that one reason for avoiding onshore wind was that wind turbines are too big to be constructed onshore. As Greenpeace and Friends of the Earth said, this is complete nonsense. So can the Minister confirm whether the Government are aware that the biggest barrier to the development of onshore wind is not turbine size but their policy?

On solar, the story is the same. Back in August, the Prime Minister said he would

"protect our best agricultural land"

from swathes of solar farms—before an apparent change of tack. But just last month the new Environment Secretary repeated this sentiment. This would be a mistake: blocking solar risks preventing the equivalent of 10 nuclear power stations-worth of power being built. It is one of the most cost-effective ways that renewable energy technologies can be deployed today and, importantly, deployed rapidly, with sites able to begin supplying electricity to the grid within six months of beginning construction.

The Committee on Climate Change's projections state that 40 gigawatts of installed solar capacity will be needed by 2030 to keep on track to achieve net zero by 2050. At the end of 2021, the total installed capacity of solar PV in the UK was under 14 gigawatts. The previous Environment Secretary wanted to block solar power on land entirely; the current one is openly hostile. Neither of these stances will allow us to build the necessary capacity to reach net zero by 2050, let alone any sooner. Will the Secretary of State therefore rule out the plans to block further solar power on land?

I have one final question. Amongst all this, oil and gas giants still enjoy a massive loophole for investing in more fossil fuels. Why do the Government think it right to be leaving billions of unearned, unexpected windfall gains in the pockets of oil and gas giants, forcing the public to pick up so much more of the cost of this support in higher borrowing and taxes in the future?

Baroness Sheehan (LD): My Lords, I thank the Minister for bringing the Statement to the House. I of course also welcome the return of the Energy Bill.

I will start with nuclear, and the Government's generosity with British taxpayers' money in rebooting Sizewell C. I understand that common sense has prevailed: reports are circulating that China General Nuclear has been bought out. Can the Minister confirm that that has in fact already happened, and is not just an aspiration? Can he also comment on a recent article in the *New Civil Engineer* about fears of an 11-year delay to Hinkley Point C, on the back of news of a new contract between the Government and EDF, stipulating that Hinkley C will still be funded even if it does not start operating until 2036? If this were to be the case it would not be surprising, since no nuclear reactor has ever been built on time or on budget.

Finally on nuclear, the Secretary of State in his Statement cites it as a key plank in our bid for energy sovereignty. Can the Minister say where the raw uranium fuel for nuclear power generation originates from? The last time I looked, we do not mine any of it in the UK. I hope the Minister will agree that nuclear cannot be said to be the indigenous energy we need in the same way that energy farmed from our sun, wind and waves undoubtedly is.

Intermittency concerns about energy from renewables are often cited as a reason why nuclear is necessary. However, those concerns have been comprehensively debunked. There are many, much cheaper answers to intermittency if the Government were but minded to invest in them seriously. Energy storage is an example, including in the form of green hydrogen generated from the excess wind power that the grid is unable to harness in real time. There is also pumped hydro, more solar and onshore wind geographically spread out, marine energy, smart energy and demand management et cetera.

I have not even mentioned interconnectors. Can the Minister outline the Government's view on the Morocco-UK interconnector power project? A project

[Baroness Sheehan]
that is expected to provide low-cost, clean energy to more than 7 million UK homes by the end of 2030 with no taxpayer inputs and create 1,350 permanent jobs in the UK is surely worth a mention in any government energy Statement in 2022.

Moving on to fossil fuels, why do the Government persist in preferential treatment for the fossil fuel sector, for example, through subsidies? The OECD reports UK subsidies in 2021 of £200 million on decommissioning, £250 million on oil and gas investment, £1 billion on fuel oil, £1.5 billion on ring-fenced oil and gas trade corporate income tax relief and £2.1 billion on red diesel fuel. That is £5 billion of subsidies, which is unjustifiable.

On investment allowances, I agree with every word that the noble Lord, Lord Lennie, said. In the windfall tax paid by oil and gas extractors, they benefit from an investment allowance. However, no equivalent relief is available for renewable energy generators. This is nothing short of outrageous and will disincentivise investment in that sector.

Finally, on decommissioning, the subsidy regime may be even more costly than the £200 million reported by the OECD, because decommissioning relief deeds risk leaving taxpayers paying out to companies which never made a contribution to the Exchequer. That is madness. Can the Minister say to what extent the Exchequer is exposed to these types of deed? Currently we have no visibility of the assumptions behind those deeds or the liability that might result from them.

In conclusion, a Government who produce a Statement on energy needs which does not give immediate full-throttle support and investment impetus to energy efficiency of the built sector, on-ground solar, onshore wind and community energy projects are a Government who do not get the urgency of the situation the planet faces. The lack of ambition on energy saving is breathtaking. These are the low-hanging fruit which can do so much to wean us off expensive and immoral payments to the Russian pariah state as well as other unstable regions of the world. The Government could and should have done much more on these easy wins if they are serious about energy sovereignty. I am sure that many of these things will come up in the Energy Bill that we will debate next week.

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Callanan) (Con): I thank the noble Lord, Lord Lennie, and the noble Baroness, Lady Sheehan, for their questions. I will start with nuclear, and I thank the noble Lord, Lord Lennie, and Labour for their support for it. The noble Baroness, Lady Sheehan, and the Liberal Democrats are absolutely wrong on this. The idea that we can satisfy all of our baseload capacity from a little bit of pumped hydro storage, a few batteries and a bit of hydrogen is nonsensical, I am afraid. If the Liberal Democrats are serious about ever being in government, they need to seriously address these issues of how to provide long-term energy security. I am afraid that, at the moment, nuclear is the only carbon-free option that will do so at scale. The option that the noble Baroness talks about produces puny amounts of power.

In the *British Energy Security Strategy*, we provided a clear, long-term plan to accelerate our energy transition towards net zero and away from fossil fuel prices set by global markets beyond our control, and we are making serious progress towards that. We have more offshore wind than the rest of Europe put together; we have the second-largest offshore wind sector in the world, and the contracts for difference scheme has made a massive difference. I get that the Opposition think we should go even further and even faster, and we are expanding our ambition, but the turbines are being rolled out at a rate of many hundreds a year, and there are a number of supply chain limits. I assure the noble Lord that we will continue to roll them out because, at the moment, it is the cheapest form of generation—albeit intermittent, and we therefore need to provide back-up power for it.

That is why the investment in nuclear was announced. We are confirming the first state backing for a nuclear project in over 30 years, with a £679 million investment to support the UK on our journey to greater energy freedom. We are taking a 50% stake in the project's development, with EDF. Sizewell C is set to generate reliable and clean homegrown electricity for 6 million UK homes, but it will of course also deliver thousands of high-value jobs in East Anglia and nationwide. We are also working hard to set up Great British Nuclear with support from the industry and our expert adviser, Simon Bowen. Great British Nuclear will aim to develop a resilient pipeline of new-build projects, supporting them through every stage of development. There are a number of exciting developments, such as small modular reactors, which will come on stream in a few years' time.

Lord Wigley (PC): Hear, hear.

Lord Callanan (Con): I am pleased to hear that Welsh support.

The noble Baroness, Lady Sheehan, and the noble Lord, Lord Lennie, both mentioned the importance of energy efficiency and public communication, and I completely agree with them. The noble Baroness said that there was nothing in the Statement on energy efficiency, but I am afraid that she is wrong. We of course will not fix our energy future by focusing on supply alone; we have to sort out our own homes and buildings. That is why we set out our ambition, backed by an energy efficiency task force, to reduce our final energy consumption from buildings and industry by 15% by 2030.

We have already come a long way, with £6.6 billion provided in this Parliament, but we recognise the scale and urgency of our challenge. In this year's Autumn Statement, the Chancellor announced an additional £6 billion to be spent between 2025 and 2028. In addition, we announced the start of a consultation on the £1 billion ECO Plus scheme, which will run between spring 2023 and March 2026 and will aim to save consumers around £310 a year on their heating bills by installing insulation in hundreds of thousands of homes across the country. As I said, I would be interested to see any consultation responses for that.

Having all this support in place is all very well, but people need to know where to find it. That is why we are providing about £18 million to expand our public

awareness campaign to help households to do what they can to reduce their usage and bills, protecting vulnerable people over this winter and beyond. Again, I welcome the support for restarting the energy security Bill, and I look forward to our further debates on it in this House. It will be the most significant piece of primary energy legislation since 2013, and it will liberate private investment in clean technologies and encourage competition in the sector, protecting consumers and reforming the UK's energy system to ensure that it is resilient, efficient and safe.

Both noble Lords also mentioned the subject of onshore wind. We know that onshore wind is a mature, efficient and cheap technology and that we will need more of it. We are clear that, to achieve this, we will require a sustained increased in locally supported offshore wind through to 2030. However, we understand the intensity of feeling that some people have about the impact of wind turbines in more densely populated parts of England, and we want to maintain the ability of local communities to input into those proposals. Noble Lords will be aware that various amendments have been tabled to the Levelling-up and Regeneration Bill addressing onshore wind in England. We are currently giving consideration to this issue and will respond in due course.

On the issue of solar, the Government recognise that there is a need to preserve our most productive arable farmland. It is important that the Government can strike the right balance between these considerations and securing a clean, green energy system for the future; that is why the planning system is designed to take account of those issues.

In response to other issues mentioned, I am aware of the exciting proposal for the interconnector linking us with Morocco. It is an awfully long way, and the electrical engineer in me thinks of the length of that cable and the losses that will result from that, but it will be great if we can get that to fruition as it is an extremely exciting project.

The noble Baroness referred to subsidies for fossil fuels. I reiterate once again that the UK does not subsidise fossil fuels; no matter how many times she makes this point, I will give her the same answer. She and the noble Lord, Lord Lennie, referred to billions of pounds unclaimed from the fossil fuel industry. The Chancellor announced the extension of the energy profits levy, and there were lots of wild squeals from many of those companies that the Treasury has gone too far with this tax because investment is drying up. I am sure that the Chancellor will want to keep that under review.

I think I have answered most of the other questions.

7.57 pm

Lord Howell of Guildford (Con): My Lords, there is much to welcome in this very important Statement. It shows real momentum in this area, which has been lacking in the past. I will ask the Minister two questions. First, the whole of Europe is covered by an intricate and balanced system of electricity interconnectors. Can we be assured that there is no question of undermining that in pushing for the greater degree of energy security which the Statement calls for, because that will be sorely and continuously needed?

Secondly, would he care to chance his arm and offer even an estimate of when Sizewell C might be operational, if it is authorised from now? I declare an interest as being involved in the instigation of Sizewell B. That took 15 years to get going, from the authorisation to the actual production of commercial electricity. The idea is that Sizewell C is going to be a replica of Hinkley Point C. As we all know, Hinkley Point C is not without its problems, and the EPR model on which it is built is certainly full of problems. At every point where it has been tried and tested, not one EPR has yet existed which has not run into major problems. There are those who say that a set of small modular reactors would be ready much earlier on a Sizewell C site than sticking to the large-scale EPR Hinkley model. Could the Minister comment on that? There is very strong opinion that, if we want low-carbon electricity within the lifetimes of most people now alive, we are going to need that rather more quickly than these huge large-scale projects can achieve or have achieved in the past.

Lord Callanan (Con): I thank my noble friend for his question. He takes a close interest in this issue, having been Secretary of State for Energy in the past. He makes a very good point about the importance of interconnectors. They will clearly play a key role in balancing supplies across Europe, particularly as we have more and more intermittent renewables both in this country and in other parts of Europe. Of course, there are interconnectors linking us with Ireland, as well as with France, the Netherlands, Belgium, et cetera. They clearly will have an increased role to play. I forget the exact figure, but in the energy security strategy we set out that we wanted to expand the number of interconnectors that are available because of the important role that they will have.

I cannot give the noble Lord an exact date for when Sizewell C will be commissioned; these large nuclear projects have a somewhat chequered history. This is a tried and proven design, but it clearly will be a number of years before this comes on stream; it will, however, still be valuable and still be needed. In fact, if we had disregarded the advice of the former leader of the Liberal Democrats in 2010 in his famous video, we would indeed now be having new nuclear coming on stream to help us in the energy crisis that we have at the moment. SMRs, of course, will also play an important role, but they are still being developed and designs are still being improved, so, again, it will be a few years before they come on stream.

Baroness Bennett of Manor Castle (GP): My Lords, my question is also on Sizewell C and nuclear. I am sure that the noble Baroness, Lady Sheehan, and the Liberal Democrats do not need me to defend them, but none the less I will quote the CEO of the National Grid in 2015. He said:

"The idea of large power stations for baseload is outdated".

Perhaps the Minister needs to update his assumptions in that regard.

However, I will continue on from the question that was just asked by the noble Lord, Lord Howell, because the Minister was asked when Sizewell C would come on line and he declined to give an answer to that.

[Baroness Bennett of Manor Castle]
Surely, the Government must have both a median estimate and a worst-case estimate—for the enormous amount of money that they are spending—of when it is actually going to be working. I will therefore put that question again to the Minister.

Lord Callanan (Con): I disagree fundamentally with the noble Baroness. Sizewell C is an important investment. It is still at the planning stage at the moment. We will secure the funding for it and we will bring it on stream as quickly as we possibly can.

Lord Naseby (Con): My Lords, I welcome my noble friend to the Front Bench again. This was a very important Statement, and I can think of no better man to handle this very challenging area faced by His Majesty's Government. On the nuclear issue, can he reassure me that the small modular reactor programme from Rolls-Royce will not be side-lined? It seems to me a very exciting project—one that, to date, has gone well with the company, as I understand it, and with those who are working closely with it.

Secondly, as he knows, I have a genuine interest—it is nothing to declare—in what is termed in the Statement "nascent hydrogen". I personally believe that we will see, quite possibly, a similar revolution to that which we saw when we moved from coal gas to North Sea oil. In this instance, it will be a mixture of gas from the North Sea and hydrogen. If that were to happen, that would be a major step for every household in the United Kingdom. Can I be reassured that that will not be forgotten, and that hydrogen is vitally important, not just for normal usage but for the air industry, in which I also have an interest, as my noble friend knows?

Finally, just on renewables, I did a little bit of research on offshore winds in the current situation. At this point in time, things are not going well. The primary problem appears to be that National Grid is unable to give a guarantee to connect to the main transmissions until 2030. Quite frankly, that is totally unacceptable for an industry that has done well, in which we have major investments. Somebody needs to shake it up somehow so that those on the offshore and the future investments know that they can speedily get connection to the grid.

Lord Callanan (Con): I thank my noble friend for his questions. I also thank him for welcoming me back to the Front Bench, although I was not aware that I had ever left it. Nevertheless, I am sure that his concern is well thought, and I thank him for that.

On SMRs, we are indeed continuing to support Rolls Royce; the figure is about £200 million-worth of support to accelerate the design of SMRs, because they will have a key role to play. My noble friend also asked me about hydrogen. We have a very advanced hydrogen strategy and will shortly be rolling out a business model. I can tell him that hydrogen for heating is not yet an established technology in its scalability. We have the ability to blend about 20% hydrogen into the current gas main, and in the Energy Bill, which we will shortly be considering, we are taking powers to conduct village-scale trials of hydrogen to check its feasibility for heating. I think it is more likely that the use of hydrogen will be in the sectors that are hard to decarbonise, such as steel or cement, or for really big, heavy, long-distance transport, such as locomotives or heavy goods vehicles.

My noble friend also makes a good point about the grid connections. As we seek to move the electricity system generally away from big nodes to a much more diversified system, clearly that requires an awful lot of new connections to be made. That is generally by pylons, but these can be extremely unpopular in various parts of the country. Nevertheless, that is something that we need to proceed with, but we need to try to do it in collaboration with local communities. Every offshore wind farm needs to be connected to shore and into the national grid to parts of the country that use the power. So there is a massive reconfiguring of the grid going on, with massive amounts of investment to bring that about. It is a project that will take many years to bring to fruition.

Lord Arbuthnot of Edrom (Con): My Lords, does my noble friend agree that there are three elements to energy security? The first is the generation of energy, which is very important; the second is energy efficiency, which is also important, and I was very pleased with what he said about that; but the third is the distribution of energy, which is just as important and just as vulnerable. I declare an interest as the chairman of a resilience advisory company. In the light of constant cyberattacks on National Grid and the recent physical attacks on the Nord Stream pipeline, can my noble friend say a word or two about how we are addressing these vulnerabilities in the distribution of energy?

Lord Callanan (Con): My noble friend makes some very good points, and I agree with him on the three issues he talked about: generation, energy efficiency and of course distribution, which is equally important. We have a very advanced cybersecurity strategy. I am not going to go into detail on that now, or indeed our contingency plans to protect our energy infrastructure, but we are very well aware of the risks and are devoting a considerable amount of attention to this matter.

Lord Bruce of Bennachie (LD): My Lords, the Minister was a little sneering about the alternatives to nuclear power, but has he not considered that the record of nuclear power is one of going massively over budget, massive delays and an unidentifiable cost of waste management disposal? To take up the previous point, local generation and local distribution, rather than massive and highly vulnerable major projects, is a much better way to ensure sustainability in the future.

Lord Callanan (Con): The answer to the noble Lord is that we need both. We need new large-scale nuclear power, not least to replace some of the ageing stations that are being phased out, but we want lots of new renewable power locally as well. Indeed, our strategy is to produce exactly that. I know that the Opposition tend to be a bit down on our renewable energy record but, dating from the coalition days, we have a fantastic renewable energy policy. We are continuing to roll out new renewables at a very large rate—one of the fastest in Europe—and we will continue to do so, subject to

inevitable supply chain constraints as the rest of Europe seeks to catch up with the excellent policies that we have been following.

Lord Adonis (Lab): My Lords, how many new nuclear reactors do the Government think they might be able to get operational in the next 20 years with their new planning framework and Great British Nuclear? Will the Minister also indicate, to whet our appetite, if the Government were to allow a more liberal planning regime onshore wind, how big a contribution might this also make to our energy supply?

Lord Callanan (Con): The noble Lord will know, from his history of looking at infrastructure projects, that I cannot give definitive answers to those questions. We have announced the funding of Sizewell. Discussions are under way with operators for additional nuclear plants. I will be sure to let the House know when we have secured those investments and when we can make decisions on them.

It is difficult to answer the noble Lord's question on onshore wind: it will make a contribution. Clearly, individual turbines make a relatively small contribution, but when they are scaled up, it can be quite large. Again, it is intermittent generation, but they will make a contribution, particularly in local areas. We want more wind; we want more solar; we want more hydro; we want more geothermal: the whole idea is to provide a diverse mix of energy sources.

Baroness Bennett of Manor Castle (GP): My Lords, I turn to another issue raised by the noble Baroness, Lady Sheehan: that of energy conservation. The Statement says:

"The days of wasting energy are over."

I am sure that is something we would all like to see, but the Minister may recall that a couple of days ago, he answered a Written Question from me on the issue of digital advertising screens and neon shop signs, which France, Spain and, in a slightly different way, Germany, have all taken action on to see them switched off during the energy crisis to reduce energy demand and reduce the risk of blackouts. In answering me, the Minister said that the Government had no data on the impact of these. If he wants to see one for himself, he might like to wander up to Tottenham Court Road station, where there is a four-storey high screen billed as

"the largest LED canvas in Europe",

which blazes out advertising 24 hours a day, I believe. Surely that could be switched off to save energy. Will the Government look at this issue again?

Lord Callanan (Con): I do recall the Question from the noble Baroness. We do not have precise data on how many digital advertising screens there are in the country and what energy they might be using. I do not think we want to get into micromanaging people's energy consumption to that extent. We do not want the whole country to be in darkness, and there will be some important display screens that provide key information for people—so getting into heavy-handed government dictating to companies when they can switch their advertising screens on or off might be a policy beloved of the top-down, controlling Greens, but I do not think it is a practical solution.

Baroness Sheehan (LD): My Lords, if there is time I would like to ask another question and put the record straight on what I said about energy efficiency. I am fully aware that the Statement mentions energy efficiency, but I was referring to the lack of ambition the Government are showing. I think 15% by 2030 is really not good enough. We need to do so much better, and it is so easy to do so much better that it really is a missed opportunity.

Secondly, I want to talk about the interconnector from Morocco to the UK. The 3.8 gigawatts of energy it will generate is not an insignificant amount. It could help enormously with intermittency. The Minister mentioned the length of the cable that will be required. It will be immensely long, but the good news is that that cable will be manufactured in the UK, in Hunterston in Scotland, Port Talbot in Wales and parts of the north-east of England—so it is a good news story all round and I hope the Government will give it their full support.

Lord Callanan (Con): I think I said in response to the noble Baroness's earlier question that I welcome this fantastic project and wish the developers well in producing it, particularly as I believe that it can be built without taxpayer support, so we should welcome it even more—and of course we will do everything we can to support such a fantastic achievement. If it can be built, it will produce a very useful contribution to the UK's energy security.

I have to disagree with the noble Baroness, who does not think a target of 15% by 2030 is enough. I can assure her, looking at the analysis of it, that it is an extremely ambitious target. It will require a huge amount of resource to be put into the sector, both public and private, in order to achieve such a target—but if you do not reach for the stars you will never make it, and it is important that we set an ambitious target. We will do all we can to achieve it.

I said in my initial answer that we are spending £6.6 billion on energy efficiency schemes in this Parliament; the Chancellor committed another £6 billion for 2025 to 2028. We are also consulting on the £1 billion ECO+ scheme. We are doing an awful lot in the energy efficiency space and the answer will actually not be in total cash resources, but in the building up of the supply chain, which is constrained in many aspects at the moment. That is what is providing me with food for thought: to make sure that we actually have the resources on the ground, in terms of materials and personnel, to implement all these ambitious schemes.

Baroness Bennett of Manor Castle: My Lords, the noble Lord opposite referred to hydrogen and its importance as a method of storing renewable energy when an excess is available from wind and solar et cetera. I do not know whether the Minister saw a really interesting study out this week on direct reduction furnaces and how if emission allowances are gradually reduced, producing steel with green hydrogen would be 15% cheaper than producing it with coal using

[Baroness Bennett of Manor Castle]
carbon capture and storage. What are the Government doing to encourage, support and put into operation the creation of green steel in the UK, given that it is already happening in Germany and has been for a couple of years?

Lord Callanan (Con): We are looking at a lot of ways of supporting the steel sector—we think that it is a very important sector in the UK. I would question the noble Baroness's figures. If we wanted to produce steel completely with hydrogen, it would require enormous investment. I know that a number of interesting research projects are going on, but I do not think that they are particularly well established in other countries yet either. However, there are exciting prospects, and we should do all we can to support them.

I agree with the noble Baroness that one way of using so-called excess power from the likes of wind farms that produce lots of power perhaps at times when it cannot be used will potentially be in producing hydrogen. However, hydrogen is a relatively inefficient way of storing power; it is much more effective if we can use the power when it is produced. If we use a unit of electricity to produce hydrogen and then, for instance, use it for heating, we lose 60% of the energy value of that unit of electricity in converting and storing hydrogen. It is a very difficult gas to compress, to transport, to store, and then to use. It is not necessarily an efficient way, but it could be a way of storing excess electricity production if it cannot be used—that gets us back into the question that we discussed earlier of expanding the grid et cetera.

There are lots of solutions and lots of potential technologies that we could use. As I said, our strategy is to explore as many of them as possible so that we are not putting all our eggs in one basket. We have a diverse energy mix; it will take many years to roll out, but that in my view is the future of energy supply in this country.

8.18 pm

Sitting suspended.

Northern Ireland (Executive Formation etc) Bill
Report

8.24 pm

Report received.

Northern Ireland (Executive Formation etc) Bill
Third Reading

8.24 pm

Motion

Moved by ***Lord Caine***

That the Bill be now read a third time.

Baroness Williams of Trafford (Con): My Lords, I have it in command from His Majesty the King to acquaint the House that His Majesty, having been informed of the purport of the Northern Ireland (Executive Formation etc) Bill, has consented to place his prerogative, so far as it is affected by the Bill, at the disposal of Parliament for the purposes of the Bill.

The Parliamentary Under-Secretary of State, Northern Ireland Office (Lord Caine) (Con): My Lords, I will make a very brief statement on legislative consent. Clearly, the reason we are here is because there is neither a functioning Executive nor a functioning Assembly in Northern Ireland, so it has not therefore been possible to seek a legislative consent Motion. I beg to move that the Bill be now read a third time.

Motion agreed.

8.25 pm

Motion

Moved by ***Lord Caine***

That the Bill do now pass.

Lord Caine (Con): My Lords, as we conclude proceedings on the Bill, I place on record my thanks to all those involved in its passage through the House. I thank particularly the noble Lords, Lord Murphy of Torfaen and Lord Bruce of Bennachie, for their collaborative and constructive engagement with this legislation and for recognising the importance of putting it on to the statute book in very quick time.

I hope that the House will forgive me if I dispense with the usual Third Reading Oscars ceremony that has crept into our proceedings, but I thank all the officials who have worked on this Bill. The Bill is highly regrettable, as a number of noble Lords pointed out, but it is a necessary stopgap to enable the key public services to continue to be delivered for the people of Northern Ireland. I beg to move.

8.26 pm

Bill passed.

House adjourned at 8.27 pm.

Grand Committee

Monday 5 December 2022

Arrangement of Business

Announcement

3.45 pm

The Deputy Chairman of Committees (Baroness McIntosh of Hudnall) (Lab): My Lords, good afternoon. I remind the Committee that if there is a Division in the Chamber, the Committee will adjourn for 10 minutes from the sound of the Division Bell.

Combined Authorities (Mayoral Elections) (Amendment) Order 2022

Considered in Grand Committee

3.45 pm

Moved by ***Baroness Scott of Bybrook***

That the Grand Committee do consider the Combined Authorities (Mayoral Elections) (Amendment) Order 2022.

The Parliamentary Under-Secretary of State, Department for Levelling Up, Housing & Communities (Baroness Scott of Bybrook) (Con): My Lords, I will also speak to the draft Local Authorities (Mayoral Elections) (England and Wales) (Amendment) Regulations 2022, and the draft Police and Crime Commissioner Elections and Welsh Forms (Amendment) Order 2022.

These instruments were laid before this House on 1 and 3 November 2022. If approved and made, they will amend existing secondary legislation to take account of a change made by the Elections Act 2022. That change was to bring in first past the post voting for the election of mayors and police and crime commissioners, replacing the supplementary vote system, which is currently used for those elections. The change in principle was expressly tested during the passage of the Elections Act by an amendment brought to a vote on Report, and this House determined that the change should remain part of the Act.

The statutory instruments before us today are an essential consequence of that change. Elections to the roles of combined authority mayor, local authority mayor, and police and crime commissioner all rely on similar provisions in legislation for their conduct, forms and ballot papers. For this reason, we are considering these three statutory instruments amending those provisions together today.

For elections to be conducted consistently and fairly, it is necessary for secondary legislation to prescribe their conduct and to provide templates for many of the key documents that will be used in those elections. These measures will provide support to council officers and act as an assurance to the voting public: everywhere these elections are held, they are undertaken using the same ballot papers, with no variation in the form of that ballot paper from one place to the next.

Under first past the post, mayoral and PCC elections will no longer require a second round of counting in the circumstances where no candidate receives more than 50% of the vote. These statutory instruments will amend legislation to reflect the new, simpler count process. Ballot papers are changing too, showing one column of boxes against the listed candidates, with voters directed to put a cross in the box next to a single choice. Detailed instructions for the printing of ballot papers and forms, and instructions for postal voting, are also amended to reflect the change to first past the post.

Without these statutory instruments being approved and made, election officers will not be able to effectively deliver elections for these roles. The provision of the Elections Act 2022 making this change is now in force and the change will first apply to any mayoral or PCC elections or by-elections held on or after the ordinary election day in May 2023. That is 4 May 2023, being the first Thursday in May. An instrument subject to the negative resolution procedure, making similar changes for elections to the Mayor of London, was made on 26 October and laid before Parliament on 31 October. That instrument is now in force and will first apply to any by-election or elections held on or after 4 May 2023.

In drafting these instruments, my department and the Home Office have consulted the Electoral Commission on the text and we are grateful to it for its technical comments, which we have taken into account.

In conclusion, these instruments are essential to ensure that council officers can properly implement the move to first past the post voting for elected mayors and police and crime commissioners. That change, which Parliament has approved, will mean easier voting for these posts, with more straightforward counting of votes and with clearer, quicker results. I beg to move.

Lord Bourne of Aberystwyth (Con): My Lords, I thank the Minister for setting out the instruments so clearly. She has already answered one of my questions.

I have always been in favour of combined authorities and the devo deals that we have been seeing. I realise that this is beyond the scope of these instruments, but it has brought new dimensions of government and administration to swathes of the countryside. I applaud that. This has been happening not only in urban areas but in rural areas too. Can the Minister indulge us by updating the Committee on where we are on devolution deals—on Cornwall and Yorkshire, for example? I simply do not know. I am happy for this to be done in writing, particularly as it is beyond the scope of these instruments, if she cannot do so now.

I will not delay the Committee long. I had one more substantial question related to today's orders and regulations. I appreciate that they are largely about first past the post for combined authorities and local government, which is consistent with the referendum held on voting systems under the coalition Government. However, in the United Kingdom today, we have myriad different electoral arrangements, particularly in Wales, where we seemingly have some anomalies, such as the voting age for local elections now being 16 while for police and crime commissioners it is 18. Can my noble friend the Minister say something about the Government's thinking across the board?

[Lord Bourne of Aberystwyth]

Westminster retains some important legislative and administrative rights in relation to electoral arrangements, which now seem to be a smorgasbord of different positions, particularly in Wales, where the Senedd elections are done by a form of proportional representation—the additional member system—while police and crime commissioner elections are first past the post. Local government is now partly first past the post, but local authorities can, if they want, go down a different route with the single transferrable vote. There are some inconsistencies. Can the Minister say something on that? I am most grateful.

Lord Hayward (Con): My Lords, may I pursue a slightly different issue, in relation to the Gould principle? As the Minister identified, these instruments would first be implemented on 4 May next year. I raise this not solely because of these orders and regulations but in relation to the recent change that, in England, moved the requirement for signatures for nominations for local government elections from 10 to two. This change was actively supported by the noble Baroness, Lady Hayter, from the Labour Benches, and the noble Lord, Lord Rennard, from the Liberal Democrat Benches. We welcomed the change, but I have a sneaking suspicion that it cannot apply to by-elections before 4 May because the Gould principle has been applied.

For the benefit of my noble friend, I identify the Gould concerned as Ron Gould, rather than the other Goulds it might be. For the sake of brevity, this is a limited quote from the Gould report of 2007. It said, on the question of six months:

"If, as proposed, a Chief Returning Officer is appointed for Scotland"—

the Gould report related to Scottish elections—

"a clause might be added to the provision permitting the time period to be waived by the CRO following an assessment of the legislation's operational impact."

When the Secretary of State made a report to the Commons on the Gould report, he said:

"Provided suitable safeguards can be found, as Mr. Gould's report encourages, I am prepared to accept that recommendation for elections to the Scottish Parliament."—[*Official Report*, Commons, 23/10/07; col. 166.]

That recommendation was that six months would apply but could be waived in certain circumstances.

I am concerned that we are seeing, in effect, a concreting and misinterpretation of that six-month rule, when it is not necessary on some occasions. It would be helpful to EROs and government in general to speed up that process. I am not asking the Minister to comment in detail at this stage on the Gould report and the principle, but I want to put on record my concern about what was originally intended to be a flexible principle and is now beginning to develop into an inflexible one.

Baroness Pinnock (LD): My Lords, I start by referencing my interests as a councillor in Kirklees and a vice-president of the Local Government Association. I will speak about three areas: the principle of the proposals, the practicalities and accountability. I appreciate that the passing of the Elections Act made these changes inevitable and I am not opposing them today, but it is worth pointing out some of the consequences of what is being done.

The Minister cited the 2019 Conservative manifesto commitment, also mentioned in the Explanatory Memorandum,

"to support the First Past the Post system".

It does not say anything about changing back to first past the post. The 2011 referendum was not about all elections having the alternative vote system, only parliamentary elections, so citing that example for this instance is not fair—it does not support the argument. If the Government want to make a change, they should just say so and not try to fluff it up with stuff that is not accurate.

The Explanatory Memorandum also states that moving to this system

"makes it easier for the public to express a clear preference".

I suppose it depends on what is meant by "a clear preference". I would not consider 40% a clear preference, which is more than likely the outcome of the changes being made. In my view—and, I think, in most people's—a clear preference would mean a person achieving over 50% of the vote, one way or another.

The only European country that uses first past the post is Belarus. Here we are, regressing to an electoral system so out of favour in European democracies that it is used only in a dictatorial country where the election was overtaken by a coup. I suppose what I am saying is that it is a backward step.

The third principle being argued here is that first past the post reduces complexity. Voters are cleverer than we give them credit for. They can vote in many different ways. I think I have attended all the mayoral elections in my part of the world, and the number of spoiled ballot papers, which is the example used in the arguments for these changes to say that the method is difficult, is minimal. More often than not, spoiled ballot papers show voters expressing very clear views about the election altogether—I will not quote some of the comments I have seen. It is not about failing to understand the voting system; it is about not being happy with how it is done at all, or the purpose of it.

4 pm

The next argument is that it will save money. This was a struggle. The argument is that it will save about £1.7 million over 10 years across the whole of England and Wales. You are pushing an argument a bit when you get to that stage. To give an example of the number of spoiled ballot papers, I could not find the full election results—including the spoiled ballot papers, turnout and so on—for the last West Yorkshire mayoral election in 2021, but I found them for one of the districts. Out of roughly 80,000 votes cast, only 600 were spoiled, in various ways. That is fewer than 1%—more or less what it is for most elections.

The Government are making arguments about saving money and time—that is pushing it as well; I have attended all the counts for these elections, and they all get done in the periods set by election administrators. They argue that it helps people understand, that it will not be complex and that it will save money and time—all very flimsy arguments, as the supporting evidence shows.

If the Government want to go back to first past the post, so be it. It will have a knock-on effect on the way mayors in particular but also police and crime commissioners will be viewed by their residents. At the moment all mayors, because of the way the votes are redistributed, attract more than 50% of the vote. There is a legitimacy which will no longer be there if, as in West Yorkshire, first past the post gives the currently elected mayor just 40% of the vote. If she gets elected on that figure, those of us who did not cast our vote for her will not necessarily regard her as speaking for all of us, because she will not. If someone in a position such as a mayor or police and crime commissioner—a single individual speaking for a very large number of people—attracts less than half the support of those who voted, the legitimacy of the decisions they make will attract more criticism and challenge. That is not in the interests of good governance. It is a shame that that will happen, but it will.

I shall say just one thing about police and crime commissioners. When the first election for police and crime commissioners was not held on the same day as any other election, where I am in West Yorkshire a staggering 17% of the electorate decided to vote. Since then, the Government have always timetabled those elections to be on the same day, generally, as those for local authorities—to make sure that more people vote, I guess. But there was a by-election in North Yorkshire last November. About 20% of people voted in that by-election for a new police and crime commissioner, which should send everyone a message about how people view these positions. They see them as irrelevant to their lives; they have not made this huge difference in the accountability of policing for local people.

There is a challenge for the Government in considering good governance and accountability for both mayoral and police and crime commissioner decisions. We have had police and crime commissioners for a while now, and you would think that, if the public had warmed to them and could see that they made a difference, they would be more willing to cast their vote for them. The fact that they do not and that there is constant criticism of that position is something the Government need to think about again. They need to think about having one person in an area—although now they are combined, are they not? We have a West Yorkshire mayor who also deals with transport, the police and goodness knows what else, with just a little scrutiny situation underneath it all. This is no way to run a big organisation. No private company would organise in that way; it would have some independent people challenging and questioning. The fact that that is not happening with the mayor—except in London, of course, where there is a better set-up—is unacceptable in terms of democracy and accountability.

With those remarks, the Minister will be pleased to hear that I have concluded.

Lord Khan of Burnley (Lab): First, I refer noble Lords to my entry in the register, which states that I am still a local councillor in Burnley.

The regulations and orders under consideration today will bring forward first past the past for a range of elections. While I disagree that this policy should be the focus of the Government's attention amid the cost of living crisis, these instruments would implement a decision already made as part of the Elections Act. For that reason, I shall not return to the same arguments made during the debates on that legislation, but I have a series of brief questions, which I hope the Minister can answer.

First, the Explanatory Memorandum and the debate in the other House seem to suggest that the only consultation was with the Electoral Commission. Can the Minister confirm this? Does that mean that no local authorities were engaged as part of this process? Did the Government speak to the Association of Electoral Administrators? Secondly, the memorandum says that this will save £7.3 million. Can the Minister explain this figure? Finally, when will the public awareness campaign begin so that voters in May know that they must change how they vote at the ballot box? I hope the Minister can provide assurances and, as always, I look forward to her response.

Baroness Scott of Bybrook (Con): I thank noble Lords for their contributions to the debate. It is probably best if I go through the speakers in turn. First, I agree with my noble friend Lord Bourne that we have elections in a lot of different ways, across the United Kingdom. There are two points for me. First, the Elections Act 2022 started to make sure that many, at least in England, were more similar. There is nothing we can do about, for example, the Welsh Government and the way they have their elections; that responsibility is devolved to them, apart from for general elections. We can only talk to them, but that is what devolution is all about and we welcome those changes.

As for devolution in this country, the Chancellor's Autumn Statement mentioned a number of authorities that were looking at different ways of combining so that they could have devolved responsibilities. I will get an updated briefing on that, let my noble friend have it and put a copy in the Library, because things in that area are moving quite fast and I should like him to have that up-to-date information.

I thank my noble friend Lord Hayward; I have noted the Gould principles. We just need to remember that returning officers need plenty of time and notice to make some of these changes to elections: they have to make different order forms and ballot papers, and train staff, if things change. The Gould principles can be flexible, as we have seen, but a certain amount of time is needed and we should be getting this through as soon as possible for May 2023.

Moving on to a number of questions from the noble Baroness, Lady Pinnock, the voting system used to elect our representatives sits at the heart of our democracy and is of fundamental importance to the Government. We were elected on a manifesto that included a commitment to continue to support the first past the post voting system. The Government believe that that system is a robust and secure way of electing representatives that is well understood by voters and provides for strong and clear local accountability. It also ensures a clear link between elected representatives and constituents in a manner that other voting systems may not.

[Baroness Scott of Bybrook]

The Government's manifesto position in favour of first past the post also reflects that in the 2011 referendum there was a significant vote, as the noble Baroness will remember, in favour of retaining first past the post for parliamentary elections, when the proposal to introduce a transferable vote system—the alternative vote—was rejected by a majority of 67.9% of voters. Voters have had their say. It is simple and understood, and the Government have made it very clear in our manifesto that we support it and will move forward by changing any elections that we can to make those systems simpler.

The noble Baroness also brought up challenging spoiled ballots in other electoral methods. To give your Lordships an example, around 5% of votes cast in the May 2021 election for the Mayor of London, under the existing supplementary vote system, were rejected. The noble Baroness said that it is normally about 1%, but 5% is five times that. The Electoral Commission report of 2015 on the general election found that the percentage of votes rejected in the supplementary vote elections, held on the same day as the general election, was 12 times higher than for the first past the post vote.

Baroness Pinnock (LD): Does the Minister have a breakdown of the spoiled ballot papers? As she will know, having been involved in elections for many years, rejected ballot papers are spoiled for a number of reasons. Sometimes voters do it deliberately, writing "None of the above" or words to that effect—sometimes quite strong words—or deliberately voting for every candidate. Those papers are spoiled not because the voter does not understand but because they reject all the candidates who are standing or for other reasons. Lumping it all together like that does not reflect validly what went on. I gave an example from Wakefield district where less than 1% were rejected for valid reasons of obviously not understanding the way the election system worked.

4.15 pm

Baroness Scott of Bybrook (Con): The noble Baroness is quite right: the issue of spoiled ballots is complex. Ballots can be spoiled for many reasons. This can also reflect how the electorate is feeling at the time. I think we have all seen that when we have been closely involved in elections.

The noble Baroness also brought up the issue of savings. The savings referred to in the Explanatory Notes are from the findings of the impact assessment. As a responsible Government, we always undertake impact assessments. The decision was taken to do that assessment on the principle of FPTP. There is a saving, and we have to communicate that.

The noble Baroness also raised PCC elections and turnout. I quite agree with her. However, I am not sure that it is up to the Government to ensure that our communities and the electorate understand the work of PCCs. I would challenge PCCs and suggest that they need to get out and tell their communities what they are doing on their behalf. They have been around a long time. The percentage turnout is increasing, but I agree with the noble Baroness that it is not increasing enough, given the important work that they do.

I move on to the questions from the noble Lord, Lord Khan. The Electoral Commission was the only consultee, because it was a technical consultation. We just wanted to make sure that all the wording and technicalities were correct. The Electoral Commission will issue guidance to explain the votes and exactly what has to be done, and it will do it as soon as secondary legislation is available. As part of the Bill itself, we made it clear that any differences to the way our electoral system works had to be communicated. This will be done in plenty of time for the elections in May next year.

I have mentioned the impact assessment and the £7.3 million. It is published—this is something that we do. I am very happy to share that impact assessment, if the noble Lord would like to see it. We will let him have it, so that he has all the detail.

These orders and regulations will mean that the decision which Parliament has taken, that mayoral and PCC elections should be on a first-past-the-post basis, can be implemented effectively. They are an essential element in the legal framework sustaining our local democracy. Therefore, I commend the instruments to the Committee.

Motion agreed.

Local Authorities (Mayoral Elections) (England and Wales) (Amendment) Regulations 2022

Considered in Grand Committee

4.19 pm

Moved by ***Baroness Scott of Bybrook***

That the Grand Committee do consider the Local Authorities (Mayoral Elections) (England and Wales) (Amendment) Regulations 2022.

Motion agreed.

Police and Crime Commissioner Elections and Welsh Forms (Amendment) Order 2022

Considered in Grand Committee

4.20 pm

Moved by ***Baroness Scott of Bybrook***

That the Grand Committee do consider the Police and Crime Commissioner Elections and Welsh Forms (Amendment) Order 2022.

Motion agreed.

Animals and Animal Health, Feed and Food, Plants and Plant Health (Amendment) Regulations 2022

Considered in Grand Committee

4.21 pm

Moved by ***Lord Benyon***

That the Grand Committee do consider the Animals and Animal Health, Feed and Food, Plants and Plant Health (Amendment) Regulations 2022.

The Minister of State, Department for Environment, Food and Rural Affairs (Lord Benyon) (Con): My Lords, these regulations were laid in draft before this house on 20 October 2022. The time that we have does not permit me to cover in detail all the amendments that these instruments make, but I shall do my best to cover some of the most significant points.

The first instrument makes technical amendments to various pieces of retained EU law and domestic legislation to ensure that they operate effectively in the following four areas after the UK's withdrawal from the EU:

"Official controls and requirements on imports into and movements within Great Britain of animals, animal products, plants and plant products; the rules on animal welfare during transport; the rules on the marketing of plants and planting material; and the rules on the prevention, control and eradication of certain transmissible spongiform encephalopathies, a group of fatal diseases which include mad cow disease."

This instrument also addresses various other deficiencies in retained EU legislation and corrects errors in earlier instruments made under the European Union (Withdrawal) Act 2018. The changes are, for example, to

"clarify that the appropriate authority can create or amend rules on penalties for non-compliance with these regulations and relevant supporting legislation with regards to the Official Controls Regulation and Plant Health Regulation; streamline the process for designating an appropriate authority as a competent authority responsible for carrying out official controls; and replace the existing obligation for the appropriate authority to make secondary legislation to address biosecurity risks from imports of animals and animal products with a power to make secondary legislation, helping to protect biosecurity by giving Defra the flexibility to address biosecurity risks through means other than regulations."

The Plant Varieties and Seeds Act 1964 is amended to enable Ministers to make regulations via the negative resolution procedure to ensure that domestic secondary legislation, which captures the marketing of fruit, vegetables, and ornamental plants for planting, can be updated as required. This change will ensure that we can keep pace with changing requirements in this space. Corrective amendments make it clear to transporters, organisers, and keepers of live animals, that they must comply with the journey log requirements on protecting animal welfare in transport.

The second instrument makes modifications to the interpretation of 11 directives to ensure a continuing and fit-for-purpose imports system for animals and animal products entering Great Britain, to ensure that the legislative regime is up-to-date, enforceable, and easy to use. These modifications do not make policy changes. They are technical fixes to assist with the interpretation and application of the directives. This instrument also transfers the functions, including legislative powers from EU bodies, to the appropriate authority and makes the necessary changes to relevant import enforcement legislation.

Both instruments apply across Great Britain, although there are some exceptions. In the first instrument, Regulation 12 applies only to England and Wales, Regulation 13 applies only to Scotland, and Part 6 applies only in England.

In the second instrument, Part 1 applies across Great Britain, whereas in Part 2, Regulation 5 applies only to England. Regulation 6 applies only to Scotland, and Part 3 applies only to England and Scotland, with the Welsh Government having laid a mirroring instrument which applies in Wales. I will be testing noble Lords on that later; I hope it was clear. Both instruments also make a series of technical amendments to other pieces of legislation to ensure that they are fully operable.

In summary, the amendments in these instruments will ensure that official controls on imports of animals and animal products continue to be effective, that appropriate authorities have the relevant powers to make and implement necessary changes to imports legislation and that we have the legislative tools we need to safeguard our biosecurity.

To conclude, the devolved Administrations in Scotland and Wales have provided their formal consent for these instruments. Movements from Northern Ireland or the Crown dependencies are considered internal movements and are not affected by the modifications and amendments laid in these instruments. I beg to move.

Baroness McIntosh of Pickering (Con): My Lords, I am most grateful to my noble friend for presenting these two statutory instruments, which I support. I shall press him on a couple of issues.

Will both instruments definitely be retained and not excluded under the provisions of the EU retained law Bill currently in the House of Commons? Having done all this work, it would be a pity to waste it. In each case, will the Minister clarify which are the relevant public authorities?

On the trade in animals and related products regulations, as an MEP I spent many happy hours looking at the live trade in animals. As the MEP for Brightlingsea, I had the rather unfortunate experience of representing Brightlingsea when it closed down the live trade in Dover; there were demonstrations to prevent the live trade. My understanding is that it is still the case that one live animal is transported for every seven transported in carcass form, certainly from this country—now we are a third country, or third countries—to the EU. Are those figures correct, and are they still reflected in imports from the EU to this country?

Also, in the provisions of the regulations, is there a role for the Food Standards Agency in this regard? Whichever agency or authority it is, will it rely on notifications, or will it be able to do spot checks? It would be better for the Committee's trust in the system—certainly my own trust—if it was able to do spot checks either on live animals or animal products, in frozen or fresh form. That would be very helpful to know.

I have two small further points to make that I am fortunate to have in my possession having attended the briefing from the Food Standards Agency on a completely different matter—its annual report for last year. Clearly, the regulations reflect the fact that, as a result of our departure from the EU, Ministers and food regulators are now directly responsible for food law for the first time in nearly 50 years. Therefore, the level of understanding, particularly at local authority level—not just when the products come into this country but when we are relying on local authorities to do inspections of food businesses at the level of outlets—is a matter of some concern.

[Baroness McIntosh of Pickering]

Can my noble friend say how the Government plan to address concerns that I and others have? I do not want to put words into the mouth of the Food Standards Agency, but it has reflected this in its annual report, where it says:

"Firstly there has been a fall in the level of local authority inspections of food businesses. The situation is in the process of being repaired … but progress is being constrained by resource and the availability of qualified professionals."

I understand that part of that problem is lack of skills and understanding that this is a potentially interesting and rewarding job. The endgame is to make the job of health inspectors attractive. The second problem the FSA raises is

"in relation to the import of food from the EU … To enhance levels of assurance on higher-risk EU food like meat, dairy and eggs, and food and feed that has come to the UK via the EU".

4.30 pm

This is potentially an extremely challenging area. It is just 10 years since we had the horsemeat scandal—or "horsegate", as it became known. I accept that I could not tell the difference between a horse carcass and a cattle carcass, whether they had meat on them or not, but there should be someone out there looking at this and ensuring that horses imported into this country will not end up on our plate, passed off as beef. That case highlighted the importance of inspections, not just on an ad hoc basis but spot checks. It not only highlighted notifiable cases as they come into this country but, as the food penetrates through the food system, ensured that when we eat kebabs—I do not eat many of them—they are what they say on the product and not something else. With those remarks, I welcome these regulations.

Baroness Bakewell of Hardington Mandeville (LD): My Lords, I thank the Minister for his introductory remarks to these two statutory instruments. I fear that I may fail his questions on the geographical applications of the SI. As with many statutory instruments that we have debated recently, the first—on animals, animal health, feed and food, plants and plant health—corrects errors in previous SIs.

The Explanatory Memorandum says in paragraph 7.2 that SI 2016/2031 will be reintroduced. Having been removed, it was considered redundant, but the removal appears to have left no mechanism available to enforce the regulation. The SI refers to three months' imprisonment in all three devolved Administrations for non-compliance with the regulation. If there is no enforcement mechanism, can the Minister say how the prison sentences are to be applied and carried out? No doubt I have misunderstood this section of the SI.

Paragraph 7.4, as regards the OCR, refers to a designated competent authority but also states

"where no competent authority has been designated, the appropriate authority will be assumed to be the competent authority."

Can the Minister say what qualification is needed to be classed as a competent authority, what is needed to be an appropriate authority, and who or what this is likely to be?

Paragraph 7.8 of the EM refers to Article 139, non-compliance and penalties for non-compliance, but states

"there are no powers to create any penalties to fulfil this requirement."

In that case, is there any relevance to this SI?

Paragraph 7.13 refers to transporters, organisers and keepers of animals keeping a journey log, as set out in "Annex II". I could not find any such annexe either in this SI or the Explanatory Memorandum. Can the Minister point me in the right direction for this?

I turn now to trade in animals and related products. This appears to be a much simpler SI. I note in paragraph 6.2 of the EM that the Welsh Government are producing an equivalent version. Can the Minister say whether this will be compatible with the one that we are debating this afternoon, or whether it will be radically different? Some difficulties could arise if it were different.

The instrument as a whole refers to animals and animal products. Might those products include ivory? What inspections and checks are taking place to ensure that ivory products do not slip through the net and enter the country illegally? Paragraph 7.2 covers the import of live animals and products of animal origin from the EU. Although this appears to relate only to imports, the wording allows the European Commission to make changes to legislation for intra-European movements of live animals. Is it possible that this could be used to export live animals to the EU? Could this also be used to circumnavigate the UK's ban on the export of live animals? I should be grateful for the Minister's comments.

Finally, the last sentence of paragraph 7.5 states:

"Movements from Northern Ireland or the Crown Dependencies are considered internal movements and are not affected by the modifications."

Given the close proximity to the coast of France of the Crown dependencies of Jersey and Guernsey, is it possible for live animals to be exported via this route? I look forward to the Minister's reassurance on that point.

Despite my comments, I am content for these two SIs to pass and await the Minister's comments.

Baroness Hayman of Ullock (Lab): My Lords, we also support these SIs but, like other noble Lords, I have a few questions and points to make about them.

I am concerned by the number of SIs where we have seen errors—and I have raised this on a number of occasions—when bringing former European legislation into UK law. We know that five particular SIs are referenced in paragraph 3.1 of the Explanatory Memorandum for the Animals and Animal Health, Feed and Food, Plants and Plant Health (Amendment) Regulations, all originating from 2019 or 2020. It is concerning that we are still seeing this number of corrections happening. I have asked the Minister before to reassure us that it is not going to keep happening but, unfortunately, it seems to keep reappearing. We ask again for reassurance that this is being sorted out and we are not going to keep having statutory instruments to correct previous instruments that we have already passed.

The noble Baroness, Lady Bakewell, mentioned the issues with paragraph 7.2, outlining the penalty regime. As she pointed out, the penalty regime was considered redundant in 2020, which now means that there is no

mechanism fully to enforce the plant health regulation as the existing penalty regime cannot be amended or added to. Can the Minister let us know what the practical impact of this has been, and what is the current situation going forward?

We also know that other areas have been corrected, including the accidental deletion of a requirement on the Secretary of State to charge fees in connection with certain functions carried out under the official controls regulation. It worries me how much the Government are trying to achieve in such a short space of time, and this is one of the reasons we are seeing so many errors. Again, I would be grateful if the Minister can confirm to the Committee that he is keeping a very close eye on the department in these areas, so we have as few errors as possible. We completely support the fact that we need to avail ourselves of opportunities to regulate ourselves differently, now that we are out of the EU, but we worry about the lack of legal clarity in the short to medium term while these errors keep taking place.

More positively for this SI, we are pleased to see that paragraph 7.1 of the Explanatory Memorandum notes that the devolved Administrations were consulted on the changes and consented to them. We welcome that collaborative approach being taken to relations with the devolved Administrations.

Very briefly on the second SI, the Trade in Animals and Related Products (Amendment and Legislative Functions) Regulations 2022, I reiterate what was said by the noble Baroness, Lady Bakewell of Hardington Mandeville, about the Welsh Government's equivalent instrument. It would be helpful to have an update on what that says and how it works with what we are doing in Westminster.

The Joint Committee on Statutory Instruments reported on Regulation 9(5) regarding defective drafting around the definition of "enactment". The question was whether this regulation can be used to amend Acts of Parliament. Again, clarification is needed but, also, what is the purpose of this power? Could the Minister give an example of how this would be used in practice?

Finally, I draw attention to some other questions noble Lords asked, particularly on live animal exports, which both noble Baronesses mentioned. It is important that we have clarification on the implications for import/export with the EU, compared to our legislation on this issue. The noble Baroness, Lady McIntosh of Pickering, also asked an important question about whether this will be retained law as we bring forward other legislation. The questions on food inspections were also important.

This worries me particularly because of the number of errors. It is important, when we put through these SIs, that we have real clarification on some of these issues. I look forward to the Minister's response.

Lord Benyon (Con): I am grateful to noble Lords for their interest in these instruments and their contributions. As ever, I will try to respond to all the points raised.

My noble friend Lady McIntosh raised some important points. The Retained EU Law (Revocation and Reform) Bill is part of the Government's commitment to taking the necessary steps to put the UK statute book on a sustainable footing, following the exit from the EU. While the department assesses its retained EU law and plans for the REUL Bill accordingly, these statutory instruments ensure that the current legislation is operable. This is the last opportunity to make these technical fixes before the powers from the European Union (Withdrawal) Act to make these modifications expire at the end of this year.

My noble friend and the noble Baroness, Lady Bakewell, raised important points about designated competent authorities. The official controls regulation provides that the competent authority will be the appropriate authority—the relevant Minister in Great Britain—or any other authority to which such functions are conferred. The designations of competent authorities are set out across various pieces of secondary legislation or dealt with administratively, and vary across the different areas within the official controls regime. Amendments to Articles 3 and 4 of the official controls regulation do not alter any existing designations, but make the process for designating a competent authority clearer and ensure that the appropriate Ministers do not need to designate themselves as competent authorities.

My noble friend raised some very important points about live trade, which I will come to. The Food Standards Agency is an increasingly important body since we left the EU. She is right that it is now directly responsible for food safety and for working with local authorities to make sure that they have the necessary skills, understand the changing legal environment and are able to carry out their functions effectively to keep us all safe.

My noble friend is right to talk about meat imports. We have recently changed the rules to allow a much smaller amount of permissible material to be moved in an attempt to tackle the threat of African swine fever—a serious risk rampaging across Europe, which we are working really hard to prevent ever coming to these shores. We have exercised thoroughly with Defra and its agencies to work out how we would deal with an outbreak, but it is one we want to prevent happening in the first place.

4.45 pm

My noble friend is also right to mention the horsemeat saga. I was in Defra at the time. Government, its agencies, retailers, business and a whole variety of other organisations learned a lot from that. Technology is our friend here. DNA sequencing has allowed us to detect when fraud is happening in our food system.

In response to the questions on the first instrument asked by the noble Baroness, Lady Bakewell, robust enforcement mechanisms are in place to ensure that the plant health regulation is fully complied with. These consist of offences and criminal penalties as detailed in the Plant Health etc. (Fees) (England) Regulations 2018, and equivalents in the devolved Administrations. The amendments in this new instrument ensure that these existing offences can be amended and new offences created to ensure that enforcement options remain complete and up to date for the plant health regulation.

In reference to the noble Baroness's question about "Annex II", the reference in paragraph 7.13 of the Explanatory Memorandum is to Annex II to

[Lord Benyon]

Regulation 1/2005, on the protection of animals during transport. Annex II sets out the requirements for journey logs needed to transport live animals.

On designated competent authorities, as I have explained, the official controls regulation provides that the competent authority will be the appropriate authority—in most cases the Minister in the relevant country. The designations of competent authorities are set out across various pieces of secondary legislation or dealt with administratively and vary across different areas within the official controls regime.

The amendments to Articles 3 and 4 of the official controls regulation do not alter any existing designations but—noble Lords will be glad to know—make the process for designating a competent authority clearer and ensure that the appropriate Ministers do not need to designate themselves.

A number of noble Lords raised penalties relating to non-compliance. Article 139 of the official controls regulation, as retained, places a duty on the appropriate authority to ensure that rules on penalties relating to infringements of the official controls are in place. However, no corresponding power was retained to create new penalties or amend existing penalties set out in existing legislation. Therefore, this amendment is necessary to ensure that we have sufficient penalties in place connected to the official controls regulation and delegated legislation. It is an important enforcement measure.

In answer to questions about the Welsh statutory instrument, my information is that, yes, it is compatible with ours. We are working closely with devolved Governments to make sure that there is a seamless regime across Great Britain. If there is any difference, we will certainly let noble Lords know, but my information is that it is entirely compliant.

The answer to the point from the noble Baroness, Lady Bakewell, about ivory is also yes. Ivory is an animal product. This instrument provides only for animal and public health requirements and does not affect other policy areas such as those dealing with endangered species. The Ivory Act 2018 bans the trade in ivory, not only within the UK but to and from the UK. This instrument provides rules for imports into GB only; it does not cover exports of live animals but, as noble Lords will know, that is now a very small number and likely to be extinguished altogether. However, we have to have rules for the import and export of animals—for example, breeding stock, athletic animals such as racehorses and other types of animal. The provisions for movements between EU member states have been omitted. Exports to the EU are excluded from the scope of this instrument.

Live animals can come to Great Britain via Guernsey or Jersey as long as it is in compliance with the conditions on the import health certificate. References to Great Britain in the certificate published on the government website include the Channel Islands and the Isle of Man.

The noble Baroness, Lady Hayman, raised an entirely justifiable point. The longer I am in this role, the more respect that I have for those who draw up our statutory instruments and try to create a regulatory regime that is fit for purpose and able to be used by stakeholders effectively. It is incredibly complex. I accept that sometimes we get it wrong. I therefore hope I am open with noble Lords when that happens. It has been the department's intention to correct errors when they are identified and to ensure that we have a fully operable sanitary and phytosanitary regime.

The noble Baroness's question related to additional powers beyond those directly equivalent to the tertiary legislation-making powers that the commission has under the relevant EU marketing directives. The proposed amendment provides for an extension of existing powers to create a new category of material, of vegetative plants for planting. The widening of Section 29(1) of the Plant Varieties and Seeds Act 1964 to cover that new material confers new powers, most of which replace specific powers that previously existed under EU directives. If she needs more information on that, I am happy to write to her.

I think I have covered the points raised. I hope noble Lords will share my conviction of the need for these instruments. I am grateful for their supportive remarks. As I have outlined, these instruments are vital technical fixes and operability amendments. Parliamentarians in this House and the other place will, of course, continue to be able to hold me, other Defra Ministers and the department to account through all the usual means, for the ways in which the powers in this instrument are exercised. I commend the regulations to the Committee.

Motion agreed.

Trade in Animals and Related Products (Amendment and Legislative Functions) Regulations 2022

Considered in Grand Committee

4.52 pm

Moved by ***Lord Benyon***

That the Grand Committee do consider the Trade in Animals and Related Products (Amendment and Legislative Functions) Regulations 2022.

Relevant document: 18th Report from the Joint Committee on Statutory Instruments (special attention drawn to the instrument)

Motion agreed.

Extraterritorial US Legislation (Sanctions against Cuba, Iran and Libya) (Protection of Trading Interests) (Amendment) (EU Exit) Regulations 2022

Considered in Grand Committee

4.54 pm

Moved by ***Viscount Younger of Leckie***

That the Grand Committee do consider the Extraterritorial US Legislation (Sanctions against Cuba, Iran and Libya) (Protection of Trading Interests) (Amendment) (EU Exit) Regulations 2022.

Viscount Younger of Leckie (Con): My Lords, I am pleased to open the debate on this instrument, which amends the Extraterritorial US Legislation (Sanctions

against Cuba, Iran and Libya) (Protection of Trading Interests) Order 1996, which I shall refer to from here as the 1996 order.

It aims to correct a minor and technical deficiency arising from the United Kingdom's withdrawal from the European Union. Specifically, it updates a single cross-reference to Section 30(3) of the Small Business, Enterprise and Employment Act 2015, so that it matches an update made to that provision that was itself made during the withdrawal process. That is all this instrument does; it really is a very minor and technical amendment.

However, as noble Lords might expect, I will provide as much information as possible on the background to this instrument. The 1996 order is part of the legislation setting out the United Kingdom's protection of trading interests regime. This also includes the Protection of Trading Interests Act 1980 and the retained version of Council Regulation (EC) 2271/96, the EU version of which is also known as the blocking regulation or the countermeasures regulation.

Together, these concern a matter vital to the interests of the United Kingdom as an international trading nation: they seek to protect against and counteract the effects of so-called extraterritorial domestic legislation made by other countries. That is legislation that seeks to enforce those countries' economic and commercial policies beyond the normal bounds of national jurisdiction as recognised in international law.

To provide your Lordships with an example, most countries impose sanctions on persons that rely on either a territorial or nationality-based jurisdictional nexus. To be clear, when I say "persons", I mean both individuals and corporations. However, certain countries claim extraterritorial jurisdiction to apply sanctions beyond their borders to all persons, regardless of their connection to the issuing country. These measures can be unilaterally deployed by third countries to coerce UK operators to withdraw from activities that are otherwise lawful in the UK—in effect, imposing their domestic law extraterritorially. These currently include US sanctions against Iran and Cuba.

Despite the title of the 1996 order, this instrument does not currently concern US sanctions against Libya. When the 1996 order was originally drafted, one of the proscribed sanctions laws for the purposes of the blocking regulation was the United States's Iran and Libya Sanctions Act of 1996. This was removed from the list of proscribed US legislation in the blocking regulation by an amendment in 2018. In practice, this issue of extraterritorial sanctions legislation primarily arises in relation to the US, although it is right that we take similar action against other countries as the necessity arises.

By way of a more concrete example, consider a UK company with no connection to the US importing something—shall we say cigars?—to the UK from Cuba. It might find itself being denied insurance for those imports by a UK bank, on the grounds that providing such insurance could breach US sanctions laws. The protection of trading interests legislation provides that it would be unlawful for the bank to refuse insurance on this basis, protecting the importer's trading interests and those of the UK more broadly.

The function of the retained blocking regulation and the 1996 order is then to protect UK entities from being forced to comply with such extraterritorial laws, including sanctions. The retained blocking regulation also allows UK entities to recover damages arising from the application of sanctions imposed by another country.

I now turn to the detail of the instrument before us. The 1996 order initially provided the mechanism for implementing the EU blocking regulation in domestic law by setting out the offences and penalties relating to that regulation. It has continued to provide the same function in relation to the retained blocking regulation.

Article 4 of the 1996 order, as amended in 2018, sets out various requirements for carrying out a five-yearly review of the regulatory provisions contained in that order. In particular, Article 4(4) cross-references and paraphrases Section 30(3) of the Small Business, Enterprise and Employment Act 2015. That cross-reference specifies that a review carried out under Article 4 must, as far as is reasonable, have regard to the rules on penalties applicable to infringement of the EC countermeasures regulation and the measures taken to implement them in other EU member states.

There are two deficiencies in the current drafting. First, the cross-reference to Section 30(3) of the Small Business, Enterprise and Employment Act 2015 is out of date and does not reflect changes made to that section following the UK's withdrawal from the EU. Secondly, similarly, following our withdrawal from the EU, the EC blocking regulation no longer applies to or in the UK. Therefore, the instrument seeks to both update the cross-reference to Section 30(3) and remove the obsolete reference to EU law and EU member states. Instead, the replacement text provides for considering other applicable international obligations, in line with the current wording of Section 30(3). This will allow us to tailor our assessment to the UK's relevant international obligations and properly reflect our departure from the European Union.

5 pm

As I said at the beginning, the proposed amendment is a technical fix; it does not change His Majesty's Government's approach to this issue. Ultimately, the blocking regulation has a single and non-contentious objective: to ensure that commercial decisions by UK persons are not subject to the extraterritorial laws of other countries which exceed the boundaries of the international law on jurisdiction. The instrument laid before this Committee ensures that the 1996 order, as amended, remains fit for purpose. I beg to move.

Baroness Northover (LD): My Lords, I thank the Minister for that explanation, which I understand. There seems to be a theme in these SIs this afternoon. The Explanatory Memorandum explains that the change is needed to

"correct deficiencies arising from the UK's withdrawal from the EU"

and to

"ensure consistency across the statute book".

I must say that I smiled when I read this. Does it give the Minister pause for thought? As was referred to in the previous debate, who knows how many SIs would

[Baroness Northover]
need to pass through Parliament to meet an arbitrary deadline for the removal of vast amounts of EU-derived legislation if we are dealing with this kind of problem this afternoon? What inconsistencies, deficiencies and unintended consequences does he think that would have while departments are also trying to get on with their primary purposes? My sympathies—as also expressed by the noble Lord, Lord Benyon—are with the officials having to pump these things out and deal with all the corrections, as we saw with the last group of statutory instruments and as we will see with the following ones.

However, since we are discussing this, I ask the Minister: do we remain totally in line with the EU in relation to sanctions, given that we know that sanctions applied by a number of jurisdictions are more effective than acting alone? The noble Lord, Lord Ahmad, readily agrees to and rightly emphasises that.

We know that, in relation to Cuba and Iran in particular, we are not always in alignment with the United States. That is one reason why we need this SI. We also know that sanctions applied to companies by the United States have a chilling effect far further and that even if the UK exempts companies from sanctions, which is appropriate, their concern about ending up in the US courts can mean that they nevertheless pay particular heed to the US sanctions. That is not really dealt with by this tinkering with the deficiency.

Can the Minister say what conversations are occurring in regard to Cuba, for example? There was a significant thawing of relations between Cuba and the United States in recent years, particularly since the end of Castro's period. I am slightly surprised that we need to deal with some of the restrictions put in place in earlier years.

Can the Minister also update us in relation to Iran? That is another area where we have not always been in alignment with the United States. For example, we and the EU support the Iran nuclear deal that President Trump pulled out of. I wonder whether we are more aligned now as attempts are made to reinstate that nuclear deal, which was negotiated primarily by the noble Baroness, Lady Ashton, within the EU.

As I said, my sympathies are very much with the officials having to deal with this, but it is nothing by comparison with what the Government apparently wish to do over the next year. I would like the Minister to comment on that and I look forward to his general response.

Lord Lennie (Lab): My Lords, I thank the noble Viscount, Lord Younger, for his characteristically thorough and detailed explanation of this regulation before the Committee. I gave notice to him that I would be brief, and I intend to keep to that.

As we have heard, this SI updates the cross-reference in Article 4(4) of the 1996 order to reflect the wording in Section 30(3) of the 2015 Act, as amended by the EUWA 2018, and remove the reference to the EU countermeasures regulation. That is the sexy bit of what I am going to say.

Obviously, this side of the Committee supports the regulations, but I have a couple of questions for the Minister, if he would care to speculate. First, what would the implications have been if this had not been fixed—can he speculate on that? Secondly, are any further changes expected or anticipated, especially given that the previous update to legislation seemed to have missed these specific updates which are now before the Committee? With that, I shall leave it to the Minister to consider briefly, and perhaps he can give us a response.

Viscount Younger of Leckie (Con): My Lords, I thank the Committee for its response and thank the noble Baroness, Lady Northover, and the noble Lord, Lord Lennie, for their general support for these regulations. I will do my best to answer the rather rapid series of questions that cropped up.

I start by gently saying to the noble Baroness, Lady Northover, that she asked a few slightly leading questions about pausing for thought and inconsistencies and deficiencies. I ask her to forgive me for saying so, but we have left the EU and we need to make the very best of it. This is part of that, and however many SIs we need to take through this Committee or indeed the Chamber, that is the way it should really be. But I hope I can answer some of the noble Baroness's questions as well.

On her question about Cuba, the UK considers that the continued US embargo against Cuba is counterproductive, and we consistently vote in support of the annual United Nations General Assembly resolution calling for it to be lifted. The UK continues to consider the activation of Titles III and IV of the Helms-Burton Act, which strengthen and continued the embargo against Cuba, to be contrary to international law. We have made our position very clear on that and regularly engage US officials on this issue through our embassy in Washington, as well as with the US embassies in Havana and London. That gives a very much high-level answer to the question, which I hope very much helps the noble Baroness.

On the noble Baroness's question about Iran, it is fair to say that we are all appalled by what is going on there and we will continue to hold Iran to account for its repression of women and girls and the shocking violence it has inflicted on its own people. Across international fora and working closely with our partners we will continue to expose the regime's appalling human rights violations, pursue accountability and amplify the voice of the Iranian people. I note that the noble Baroness raised the issue of a nuclear deal; something may be forthcoming on that in a moment and, if it is not, I shall certainly write to her, because that is germane.

The noble Lord, Lord Lennie, asked a couple of questions. I think one of them was about what happens if this instrument does not pass—in other words, how significant is this SI for life, if I may put it that way. The DIT could be expected to then publish a report regarding penalties applicable in the EU and measures taken to implement EU law, specifically EC Regulation 2271/96, by EU member states, notwithstanding that the EU law in question no longer applies to the UK. That is a slightly detailed answer. Therefore, it is important that we pass this legislation.

On the question raised by the noble Baroness, Lady Northover, of whether we remain in line with the EU on sanctions, she will be aware that this instrument

does not concern UK sanctions directly. However, we continue to work closely with the EU on sanctions and seek to align where appropriate. On the question, from the noble Lord, Lord Lennie, of whether any further changes are required, the answer is no. I hope that is a very succinct repeat of his question and a succinct answer.

As I said earlier, this amendment is very much a technical fix. I am gaining a reputation for taking through some rather detailed minor and technical legislation, but nevertheless, as ever, each piece is important in its own way. The instrument does not change the Government's approach to this issue or any other diplomatic or trade issue. It simply updates the 1996 order to reflect that the United Kingdom has left the European Union. Nothing in this regulation represents a change for British businesses. With that, I beg to move.

Motion agreed.

Immigration Skills Charge (Amendment) Regulations 2022

Considered in Grand Committee

5.12 pm

Moved by ***Lord Murray of Blidworth***

That the Grand Committee do consider the Immigration Skills Charge (Amendment) Regulations 2022.

The Parliamentary Under-Secretary of State, Home Office (Lord Murray of Blidworth) (Con): My Lords, these regulations make some simple but important amendments to the Immigration Skills Charge Regulations 2017.

The immigration skills charge incentivises UK businesses to take a long-term view of investment and training in the domestic workforce. It serves to address historic under-investment in training and over-reliance on cheap migrant labour by UK employers. The charge is paid by employers who sponsor migrants on skilled worker visas or global business mobility visas as senior or specialist workers. The charge is paid when the employer issues a certificate of sponsorship. They pay £1,000 per migrant per year for large businesses, or a reduced fee of £364 for small businesses and charities. In the last fiscal year, the charge raised £349 million. This funding helps to maintain the UK's skills budgets. As education and skills are devolved matters, a portion of the income is shared with each of the devolved nations. It is distributed using the formula devised by Lord Barnett.

While it remains important that the charge is applied to most employers utilising migrant labour, there are good reasons to make exceptions in specific circumstances. For example, workers are currently exempt if they enter the UK for under six months, because they are unlikely to be filling a skills shortage. These regulations will exempt two new cohorts from the charge.

5.15 pm

The first is scale-up workers. The new scale-up visa was launched this August. It enables UK businesses experiencing sustained high growth to attract top international talent and enhance the wider skills ecosystem. The visa was never intended to be subject to the charge. It aims to facilitate rapid recruitment and reduce burdens for UK businesses undergoing sustained high growth. It is designed to be attractive to both businesses and workers and offers migrants highly flexible conditions, including access to the wider labour market, without sponsorship, after six months. Applying the charge would reduce the appeal of this route and would be counterproductive to the policy. As it stands, however, the route falls within scope of the charge due to the wording of the current legislation. A waiver of the charge is in place at present, and these regulations will codify the position by formalising the exemption.

The second cohort to be exempt from the charge is EU workers undertaking intra-company assignments under the EU-UK Trade and Cooperation Agreement, which was ratified by Parliament on 30 December 2020 and secured preferential trading arrangements between the UK and the EU. One such accord was that neither party would apply taxes or charges—of a type such as the immigration skills charge—to workers undertaking intra-company assignments within the terms of the agreement. Both parties committed to drop such taxes and charges no later than 1 January 2023. This is a legal requirement enforceable under international law. The EU Commission has informed us that it is making changes to uphold its commitments in this regard. These regulations will enable the Government to uphold ours.

As set out in the accompanying Explanatory Memorandum, there has been no formal impact assessment for these regulations. This is because the immigration skills charge is considered a tax and is not within scope of the better regulation framework. Nevertheless, we have given this matter due consideration and can assure your Lordships that any loss of revenue will be minimal. This is because scale-up visas are new, and intra-company transfers from the EU account for less than 1% of the annual income from the charge.

The immigration skills charge plays a valuable role in our immigration system. It encourages UK businesses to utilise domestic labour where they can and to invest in skills when they are in short supply. However, it is important that we make exemptions to the charge when there are sufficiently good reasons to do so. These regulations will support UK scale-up businesses to compete in the global market for the skills needed to continue their growth. They will ensure that we deliver on an important trade commitment to our partners in the European Union and thereby secure reciprocal treatment for British workers undertaking business assignments throughout Europe. I commend the regulations to the Grand Committee.

Lord Palmer of Childs Hill (LD): I thank the Minister for that introduction. I will deal with the first item, on the immigration skills charge, and my noble friend Lady Northover will deal with anything I have left out and the second one.

[Lord Palmer of Childs Hill]

First, this SI is important for what it does not say as well as for what it does. Can the Minister tell me how these proposals link with the research and development tax relief and tax credits, which will come in through the Finance Act? They seem very relevant to what we are talking about. In particular, will the tax credits relating to research and development for work carried out outside the UK impact on this statutory instrument?

Further to that, according to the Explanatory Memorandum, the Minister for Innovation says that these regulations

"are compatible with the Convention rights."

Is the Minister for Innovation the correct person to make such a ruling? It seems rather like putting the gamekeeper in charge of the poacher.

Paragraph 7.5 of the Explanatory Notes says that

"This amendment to the regulations will codify the exemption."

It would be useful to have, even in the notes, some empirical examples to show that this is the case.

In his introduction, the Minister talked about the effect in the EU, as distinct from in the UK. I would like him to confirm that the Government see this as reciprocal relief for workers from the UK working in the EU.

Lastly, the Minister said that there was no loss of revenue. However, the notes say very clearly that there is no impact assessment. How can he be so sure and blithely say that there will be no loss of revenue when there is no impact assessment? He may be quite right, but this is really asking us to believe something without empirical examples.

Lord Coaker (Lab): My Lords, I thank the Minister for his introduction to the regulations. I agree very much with the noble Lord, Lord Palmer, about the SI being interesting for what it does not say as much as for what it does say. I have a couple of brief questions for the Minister; I will make some longer remarks on the next SI.

The SI has been through the other place, so we accept it, but we have certain questions about it. Why have the Government come to the conclusion that these exemptions are needed? In line with the point from the noble Lord, Lord Palmer, about what the SI does not say, what are the Government's plans, at the same time as bringing forward exemptions such as these, to ensure that there are excellent training and opportunities for our resident workforce? How does this SI fit with the stated, explicit intention of the Home Secretary and the Government to reduce levels of migration, something which we have contested?

As the noble Lord, Lord Palmer, mentioned, an impact assessment for the SI has not been published. The Minister gave some limited explanation, but I would like to know why not, and how will the impacts of the changes in this SI be monitored if an impact assessment is regarded as unnecessary or indeed if one appears in future? We have no idea where we are without impact assessments.

For example, these changes are designed to increase the number of skilled migrants in this area. How many skilled migrants have there been under the scheme so far? With no impact assessment, how can we know how successful this charging scheme has been since it was introduced in 2017? It is supposed to incentivise employers to invest in training and upskilling the resident workforce and reduce reliance on migrant workers. As the noble Lord, Lord Palmer, says, without the impact assessment, how do we know that the Government have achieved their own policy objective? The charge was introduced to discourage employers from seeking the skills they needed abroad. Whatever the rights and wrongs of that, that was the whole purpose. How do we know it has been successful?

What the Government have done is say that they need a couple of further exemptions to plug a skills gap that they have identified. The charge rate is £349 million a year. How is that money spent? From my reading, it appears that it just goes into an amorphous pot of money. How is that used to address the skills gap in the UK? There are skills shortages which we are seeking to plug through this skills exemption scheme, among other measures. Alongside that, there is the paradox that there are huge numbers of unskilled jobs which are unfilled. How will the Government deal with the apparent paradox of a skills shortage and yet millions of unfilled, unskilled jobs? Whatever the SI says, that is surely the policy gap and issue that the Government need to address.

Lord Murray of Blidworth (Con): My Lords, I am grateful for the contributions from the noble Lords, Lord Palmer and Lord Coaker, and for the opportunity to address some of the questions I have been asked.

I start with the point from the noble Lord, Lord Coaker, on the effect of relaxing immigration controls—if I have paraphrased that part of his question correctly. I acknowledge his concerns that creating new exemptions to the immigration skills charge appears contrary to the objectives of reducing net migration and ensuring that employers prioritise investment in resident workers. These are targeted exemptions, however. The Prime Minister recently spoke of the need to promote innovation in the economy and we think it sensible to ensure that sustained-growth businesses benefit from some easement of the usual requirements of the immigration system. That is why we have introduced the scale-up visa and why a disapplication of this charge is part of that package.

Similarly, we wish to promote cross-border trade and inward investment from overseas, and the rules that apply to movements of intra-company transferees fall within the scope of trade negotiations. In the case of the EU, we reached a reciprocal agreement that such charges should not apply to intra-company movements, and UK businesses with a presence in the EU will benefit from the certainty that that agreement provides.

I will address the point raised by both the noble Lords, Lord Palmer and Lord Coaker, on the impact assessment. Clearly, the immigration skills charge is a tax and it is therefore not subject to a formal impact assessment process. The Government have considered this matter carefully and any impacts will be minor. The scale-up visa route is new and was never planned to be subject to the charge; as such, a waiver is in place and so its exemption will not contribute to any reduction in revenue.

The number of EU intra-company workers who will be exempted from the charge is expected to be about 2,000 annually. This will account for a reduction of income in the region of £3.3 million per year—less than 1% of the total annual income from the charge.

I turn to the question posed by the noble Lord, Lord Palmer, on the Explanatory Memorandum and its attestation on the European convention. Paragraph 5.1 reads,

"The Minister for Immigration, Tom Pursglove, has made the following statement regarding Human Rights: 'In my view the provisions of the Immigration Skills Charge (Amendment) Regulations 2022 are compatible with the Convention rights.'"

I submit that he was the correct person to make the declaration at the time that it was made.

I turn to the question of reciprocal benefit with the European Union. It is understood that arrangements are being made in various parts of the EU, including France, where a €200 charge for British intra-company workers is being removed to comply with obligations under the agreement.

A general question asked by the noble Lord, Lord Coaker, was on how the money is spent on skills. The money is paid into the Consolidated Fund and then allocated to the devolved nations in accordance with the Barnett formula, as I said. The skills budget is well known to the noble Lord and is used, in that way, to alleviate any skills deficit.

The costs of collection was one issue touched on by the noble Lord, Lord Palmer. The Home Office publishes annual accounts setting out financial details, including the total costs for collection of the immigration skills charge and immigration civil penalties. For the financial year 2021-22, the cost associated with collection was £7.7 million. Details relating to what is included within the cost of collection are also contained in the annual accounts report. The costs include payment of handling charges associated with collecting the immigration skills charge, as well as the cost of staff involved in administering the charge and preparing the trust statement.

5.30 pm

In conclusion, it is right that the needs of employers are reflected in our immigration system. At the same time, it is important that the Government ensure that overseas recruitment is considered alongside investment in the development of skills in the domestic labour market, not as an alternative to it.

The immigration skills charge incentivises employers to recruit and train domestically and provides funding to enable the Government to support them to do so. The regulations we have considered today will not fundamentally change the operation of the charge. They simply create additional limited exemptions for highly skilled international workers recruited by UK scale-ups, as well as for EU intra-company workers undertaking assignments within the terms of our trade commitments.

At a time when there is, quite understandably, an intense focus on our economy and its prospects for recovery, these exemptions are designed to support high-growth businesses in the UK and to strengthen trade and investment both to and from Europe. I commend the regulations to the Grand Committee.

Lord Palmer of Childs Hill (LD): Just to take up the points that the Minister kindly referred to, he said that this would not involve additional costs. Surely an impact assessment would have talked about how much take-up there would be. If the take-up is different, the costs will be different, because more people will seek the relief. Without empirical examples, we do not know.

The Minister said that the relevant Minister was correct when he said that this was compatible with the European convention. I would have thought this was a legal matter and should have had a report from the Attorney-General, rather than a Minister who was implicitly involved in it.

Lord Murray of Blidworth (Con): I will deal first with the point about the impact assessment. As I say, as a matter of practice on taxes, the requirement to hold an impact assessment in the sense described by the noble Lord is not normally followed. However, as I say, the department closely scrutinised this question and came to the conclusions I already outlined.

On the obligation to the European Convention on Human Rights at paragraph 5 of the Explanatory Memorandum, Section 19 of the Human Rights Act requires a Minister presenting a piece of legislation to certify whether it is compatible. It is not normal practice that that attestation is signed by the Attorney-General. Plainly, all these matters are subject to legal advice, as the noble Lord would expect.

Motion agreed.

Immigration (Persons Designated under Sanctions Regulations) (EU Exit) (Amendment) Regulations 2022

Considered in Grand Committee

5.33 pm

Moved by ***Lord Murray of Blidworth***

That the Grand Committee do consider the Immigration (Persons Designated under Sanctions Regulations) (EU Exit) (Amendment) Regulations 2022.

The Parliamentary Under-Secretary of State, Home Office (Lord Murray of Blidworth) (Con): My Lords, I am pleased to present these draft regulations to the Committee. This instrument amends existing regulations that relate to the immigration consequences for someone who is designated or sanctioned under the Sanctions and Anti-Money Laundering Act 2018, which I shall call the sanctions Act. If noble Lords will indulge me, I will first set out some background to sanctions, in particular the immigration sanctions, also known as travel bans, with which these regulations are concerned.

The UK is bound by travel bans imposed by a resolution of the United Nations Security Council and can impose its own travel bans under the sanctions Act. In the vast majority of cases, travel bans are imposed on individuals who are outside the UK and have no connection with it. A travel ban has an effect on a person's immigration status; subject to the UK's

[Lord Murray of Blidworth]
obligations under the European Convention on Human Rights and the refugee convention of 1951, they cannot enter or remain here.

The 2020 regulations provide a mechanism for a person who is lawfully in the UK to make a human rights or protection claim before a travel ban made under the sanctions Act impacts their immigration status. They are then exempt from the effect of the travel ban while the claim is considered and refusal of such a claim gives rise to an in-country right of appeal before the immigration and asylum chamber of the First-tier Tribunal.

Where a person is not subject to a travel ban but is making a human rights or protection claim under the Immigration Rules, they benefit from a similar protection. However, in contrast to the exemption provided to sanctioned persons, they cannot leave the UK or the common travel area and return simply on the basis of a claim lodged before their departure. We are therefore now in the perverse situation where someone subject to a travel ban benefits from more generous protections than someone who is not.

I turn to the purpose of these regulations, which is to align the approach and correct this anomaly. The Government have considered how to address this and concluded that it is right that, when a travel ban is imposed under the sanctions Act, people lawfully in the UK are exempt from its effect while their human rights or protection claim is considered.

However, when a sanctioned person leaves the UK, that exemption should end. Any action taken in respect of the person's immigration status will be in accordance with our international obligations. These regulations therefore ensure consistency across the immigration system and that the effectiveness of our domestic sanctions regime is not compromised. I commend this instrument to the Committee. I beg to move.

Baroness Northover (LD): My Lords, I thank the Minister for that explanation and for the Explanatory Memorandum. It is clearly important that the two processes—whether or not someone is eligible to have their immigration status accepted and whether or not they are subject to a sanction—should be kept separate. Can the Minister tell us whether there have already been any cases where these have become entangled? Why was this not picked up when the sanctions legislation went through the House? I recall our debates on that and do not remember this being flagged, although I remember that we had to sort out quite a number of inadvertent challenges in that legislation.

The Home Office states that this draft SI would "address a discrepancy" whereby provisions designed to ensure compliance with the UK's international obligations, which the noble Lord has laid out, put people subject to an immigration sanction "in a better position" than people making human rights or protection claims under existing immigration rules. Once more, as with the other SIs this afternoon, that is a very interesting use of language: a discrepancy being in effect a mistake.

Again, I express my sympathy with officials, because of course these things happen. When departments have to shift away from their main aims at the same time as unscrambling legislation from our EU membership over 40 years, it is not surprising that this happens. I express sympathy with the officials who have had to deal with it, as I and the noble Lord, Lord Benyon, did in debates on the previous SIs.

I note that we have four officials here, who otherwise could be working on more substantial matters. I ask again, as I did in the previous debate: if we need such an SI to be processed with the manpower that we have here, how many more would we have to deal with if we removed the amount of secondary legislation that the Government propose and then had to sort out all the discrepancies that might creep in as a result? Given that 40 years would have to be unscrambled in the space of about a year, does he not think that that is rather unwise? There is nothing about leaving the EU which necessitates that, regardless of what his colleague implied. The Minister may have in his notes that same line as the rebuttal.

Leaving the EU is one thing but chucking out babies with bathwater when you do not intend to is clearly another. It happens so easily, as we can see from all these SIs this afternoon—all these discrepancies. I hope the Minister will reflect on that. This particular SI seems straightforward and we support it, but I look forward to his wider response.

Lord Coaker (Lab): Again, I thank the noble Lord, Lord Murray, for introducing the SI, and I thank the noble Baroness, Lady Northover, for her remarks and comments. I will spend a couple of minutes setting out some background, because this is an important SI that puts right a discrepancy. Some background and some reflection on this order will be important for those who read our proceedings.

The Sanctions and Anti-Money Laundering Act 2018 provided for an autonomous UK sanctions regime following our departure from the EU. Part of that sanctions regime included travel bans, which exclude a person from entering or remaining in the UK. The vast majority of travel bans are imposed on individuals who are outside the UK and who have no connection with the UK.

In a small number of cases where a travel ban is served on a person already in the UK, it impacts their immigration status; it cancels their permission to be in the UK and makes them liable for removal. A person can appeal that decision by submitting a human rights or protection claim, in line with our obligations under the ECHR and the refugee convention—again, the Minister pointed that out.

The original SI, which this one amends, made it clear how those appeal procedures would work by clarifying which court or tribunal would hear them. We supported that original SI; the use of sanctions against people who have committed some truly appalling crimes is absolutely vital but must rightly be reflected in line with our obligations under the ECHR and our commitment to the refugee convention. The previous SI provided clarity on how those cases—which were likely to be very rare—would be heard, and the SI was welcomed across the parties.

As the Minister pointed out, the Government have now noticed a discrepancy, which this amending SI addresses. If a person is subject to an immigration

sanction—a travel ban—the effects of the sanction do not kick in until any human rights or protection claim has been concluded. This means that a person under the sanction keeps their immigration status and can travel in and out of the UK during that time.

Conversely, if a person who is not subject to an immigration sanction—a travel ban—is appealing an immigration decision on human rights or protection grounds, that appeal can be treated as withdrawn if that person leaves the UK. The Explanatory Memorandum explains that this means that a person subject to an immigration sanction is therefore in a better position than those who are not subject to a sanction and are appealing a decision under the Immigration Rules. The order would provide that the effects of an immigration sanction come into effect if a sanctioned person leaves the UK to bring them into line with existing provisions for those not subject to a sanction.

Whenever we have discussed this set of circumstances where a person who is already in the UK is made subject to a travel ban, we have noted that these cases are likely to be very low in number, as most immigration sanctions are imposed on individuals who are outside of the UK and do not have UK connections. Is the Minister able to give an indication of how often a travel ban has been made against a person who is already in the UK since the introduction of our own UK sanctions regime following the passage of the Bill in 2018?

Today's SI seeks to amend a discrepancy, where someone subject to a sanction may be in a more advantageous position than someone who is not subject to a sanction but is appealing an immigration decision on human rights grounds under the Immigration Rules. The noble Baroness, Lady Northover, alluded to this and asked various questions. I would like to ask when this discrepancy was first noticed and how it came to light. Is it currently—I assume the answer is yes—made clear to a person appealing a decision on human rights or protection grounds that their appeal may be withdrawn if they leave the UK?

5.45 pm

More generally, it is absolutely vital that we have a dynamic, robust sanctions regime. We cannot overstate the seriousness and appalling nature of the crimes committed by some of those who come under our sanctions regime.

When I looked at the last SI debate, in 2020, the examples given by the then Minister included: 25 Russian nationals involved in the mistreatment and subsequent death of Sergei Magnitsky; 20 Saudi nationals involved in the murder of Jamal Khashoggi; two high-ranking Myanmar military generals involved in the systematic and brutal violence against the Rohingya population and other minorities by the Myanmar armed forces; and two organisations involved in forced labour, torture and murder in North Korea's gulags. Sanctions are an important tool at our disposal to promote our values on the world stage. Their importance could not be clearer as we respond to Russia's illegal invasion of Ukraine. As well as this SI, what are we doing to ensure that our own domestic sanctions reflect the strength of sanctions sought by our international allies?

Many of these SIs pass with limited involvement from noble Lords, but this small SI deals with a very important part of our Immigration Rules and laws and deserves a little reflection by us all. I will appreciate the Minister's answers to my questions, and no doubt he will also respond to those of the noble Baroness, Lady Northover, in due course.

Lord Murray of Blidworth (Con): My Lords, I am grateful for the considered debate and the contributions from the noble Baroness, Lady Northover, and the noble Lord, Lord Coaker.

I entirely agree that this is an important SI and am grateful for the support shown for it. It clearly closes an unfortunate lacuna that had been revealed. In answer to the question asked by the noble Baroness and the noble Lord, the discrepancy came to light as a consequence of a decision to impose designations in March. Clearly, the Committee will not expect me to go into the facts of individual cases, but that was the genesis of the regulation. Unfortunately, when sanctions are brought in at pace to achieve the vital objectives outlined by the noble Lord, Lord Coaker, mistakes can occur in drafting. This was such an instance. It cannot be right that we let these people have a better position than those who would ordinarily make use of the asylum and humanitarian protection schemes. The cases are necessarily quite entangled, and obviously, as I have already said, I will not go into the facts surrounding them.

Travel bans are used to restrict the movements of those whose behaviour is considered unacceptable by the international community, those who are associated with regimes that threaten the sovereignty or independence of neighbouring countries, those who would seek to do harm, those who would seek to shelter themselves or their ill-gotten gains in other countries, and those whose aim is to profit from human suffering. The UK does not ignore its other international obligations. Those subject to a travel ban who claim fear of persecution or breach of their fundamental rights have the opportunity to make a claim before we take action to remove them from the UK. They have their statutory right of appeal against a decision to refuse their claim. If the appeal succeeds, the travel ban does not apply, meaning that they will not be removed or required to leave. It cannot be right that when sanctions can be imposed on someone, they can then come and go as they please, abusing our hospitality. Should they choose to leave the UK without a resolution on their claim, they should not find themselves in a more generous position than others.

In answer to the point raised by the noble Lord, Lord Coaker, on the overall spread of Russian sanctions, I can confirm that, together with our international partners, we have imposed the largest and most severe package of sanctions ever imposed on a major economy. The UK alone has sanctioned 1,200 individuals and over 120 entities since the start of the invasion, including 20 banks with global assets worth £940 billion and over 130 oligarchs with a combined net worth of over £140 billion, as well as introducing unprecedented trade measures.

Lord Coaker (Lab): Will the Minister repeat the sentence about oligarchs? Did he say million or billion?

Lord Murray of Blidworth (Con): I said billion. It is 130 oligarchs, with a net worth of over £140 billion. I share the noble Lord's astonishment at that figure. We have frozen over £18 billion-worth of Russian assets under the Russia sanctions regime. This represents a vast increase of almost 4,000% from September 2021—a total of £44.5 million—underlining the scale and impact of our response in targeting Putin and his regime.

I think I speak for everyone when I say that we will of course continue to stand with Ukraine in support of its right to be a sovereign, independent, democratic nation. Russian aggression cannot be appeased.

To draw matters to a conclusion, as I explained earlier, these regulations simply seek to provide consistency while maintaining the effectiveness of our sanctions regimes and complying with our international obligations. I reassure noble Lords that these regulations protect our sanctions regimes from abuse and provide consistency with the wider immigration system. I commend the regulations to the Committee.

Motion agreed.

Committee adjourned at 5.52 pm.