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PARLIAMENTARY DEBATES
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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.

House of Lords

Thursday 7 December 2023

11 am

Prayers—read by the Lord Bishop of Worcester.

Universities: Nuclear Energy Sector Skills

Question

11.06 am

Asked by ***Lord Wigley***

To ask His Majesty's Government what plans they have for increasing investment in universities to provide more opportunities for young people to acquire the skills needed to expand electricity generating capacity in the nuclear energy sector, including nuclear fusion technology.

The Parliamentary Under-Secretary of State, Department for Education (Baroness Barran) (Con): My Lords, we recognise the significant demand for skills in the nuclear sector, which are crucial to reaching net zero. We have allocated more than half of the £1.5 billion strategic priorities grant for 2023-24 to support the teaching of high-cost subjects such as science, engineering and technology, all of which can lead to careers in nuclear energy. We are also collaborating with the nuclear skills taskforce, which is devising a plan to expand and enhance the nuclear talent pool.

Lord Wigley (PC): My Lords, the nuclear skills taskforce estimates a need for 180,000 skilled jobs to deliver 24 gigawatts of nuclear energy and warns that a shortfall of relevant skills could thwart the Government's target. Is the Minister aware of the current rapid growth in demand for skilled graduates for both the fission and fusion sectors, and that we are way short of matching supply to demand? Will the Government support the proposal from Bangor University, in partnership with the National Nuclear Laboratory, for the establishment of a training reactor, which could help to train engineers and scientists to operate in nuclear facilities in order to produce nuclear medicines and research nuclear materials and components?

Baroness Barran (Con): I am aware, as are the Government more broadly, of the shortages and pressures that the noble Lord rightly refers to; he understands that those are global pressures as well as domestic ones. I will write to him on the specific project in Bangor, if I may. More broadly, the Government are absolutely committed to trying to build this workforce and provide skills; obviously, examples such as those he gave sound important in that.

Baroness Bloomfield of Hinton Waldrist (Con): My Lords, my noble friend the Minister will doubtless be aware of the many good examples of apprenticeship schemes serving both the fusion and fission industries, such as the UKAEA's Oxfordshire Advanced Skills centre, Urenco at Capenhurst, Rolls-Royce in Derby and the Nuclear AMRC in Rotherham. Urenco also sponsors departments at Manchester University and plans to do so at Bangor University. However, as the noble Lord, Lord Wigley, rightly said, there is a worldwide skills shortage, with 180,000 job shortages predicted in the UK alone. All these schemes together will not touch the sides in meeting the industry's requirements. What more can the Government do to encourage young people and teachers to gain the skills necessary to embark on highly rewarding careers in this most exciting of industries?

Baroness Barran (Con): My noble friend makes a good point. I share her appreciation for the organisations that she named. We are investing £50 million over the next two years to pilot ways in which to increase the number of apprenticeships in engineering and other key growth sectors, as well as to address barriers to entry into these professions. We will set out more detail on that in the new year, which will, I hope, go some way to addressing her concerns.

Lord Patel (CB): My Lords—

Earl Russell (LD): My Lords—

Viscount Hanworth (Lab): My Lords—

Lord Ravensdale (CB): My Lords—

The Lord Privy Seal (Lord True) (Con): There is plenty of time for everybody, if we show the normal courtesies and go round the Chamber.

Viscount Hanworth (Lab): My Lords, I understand that a memorandum of understanding has been signed with the United Arab Emirates to provide it with nuclear technology; if we do not provide it with that technology, the Russians most certainly will. The technology will be of no use unless there are trained personnel to mediate it. Do we intend to train those UAE personnel? If so, where and when should the training begin?

Baroness Barran (Con): The noble Viscount will have to forgive me; I am not familiar with the details on that, but I would be happy to write to him.

Lord Patel (CB): My Lords, does the Minister agree that, to develop nuclear technology—including fusion technology—we need many more PhD students working in postgraduate degrees, as well as more funding for those PhDs? Furthermore, as we are now not going to join Euratom and we do not have a prototype fusion reactor, what plans do the Government have to rejoin the ITER—International Thermonuclear Experimental Reactor—programme?

Baroness Barran (Con): The noble Lord is right that we need more PhDs, but we need skills at every level. That is where the Government's strategy is focusing, starting in schools and building through T-levels, then to high-quality advanced levels up to PhD. The Government are very open to exploring international co-operation in this area—less on the research side, but the AUKUS agreement was a sign of that.

Earl Russell (LD): My Lords, is not the truth of the matter that the UK is not on track to meet its greenhouse gas emission commitments made at COP 26 only two years ago? The climate emergency is now, and it is already probably too late to keep our planet below 2 degrees, let alone 1.5 degrees, of climate change. If nuclear fusion technology is achieved, it will not arrive in time to save us. Should our immediate focus not be on renewable energy skills that can make a fundamental difference to net zero immediately?

Baroness Barran (Con): I absolutely do not accept that the UK Government are not on track to meet their climate targets. We are ahead of every other major nation, as the noble Earl knows. We are also doing a lot of work in relation to green skills. Again, we will publish a green jobs plan in the first half of 2024, but we have very attractive green skills offers across every level, from skills boot camps up to the highest possible qualifications.

Baroness Wilcox of Newport (Lab): My Lords, when I questioned the Minister on skills on 27 November, she replied that the Government had announced £200 million of funding for local skills innovation funds. Are the Government aware of any examples of these local funds being available or currently used in the nuclear energy sector?

Baroness Barran (Con): It depends what the noble Baroness means by the nuclear energy sector. There are some big and strategic employers, and we can see regionally—in places such as Cumbria, unsurprisingly, and Bridgwater—that there is a concentration of activity, particularly in higher education and apprenticeships. If we think more broadly of the supply chain for nuclear, I can be very confident that it is included.

Lord Howell of Guildford (Con): My Lords, are not the technical nuclear skills that we need particularly related to smaller and medium-sized nuclear modules and reactors, of which many other countries are now ordering considerable numbers? We seem to be stuck in yet another competition while the order books are getting full. Is this not, in fact, the key to an all-electric future in 2050, without which we will not succeed?

Baroness Barran (Con): The Government feel that we have made major commitments in this area. We committed up to £385 million to an advanced nuclear fund to provide funding for small modular reactor design and to progress plans for demonstration examples by the early 2030s at the latest.

Lord Ravensdale (CB): My Lords, I declare my interests in the register. The Midlands region faces particular challenges in this area, with the ramp-up in AUKUS in the near term, which the Minister referred to, and future programmes such as the STEP fusion reactor at West Burton. How do the Government plan to support nuclear skills programmes in the Midlands, and will the Minister agree to meet with me and wider stakeholders to discuss how we can work together in this area?

Baroness Barran (Con): I thank the noble Lord. I would be delighted to meet with him and, I hope, include the Skills Minister. I am sure we would learn very much from the noble Lord's expertise in this area. In response to his first question, I can say that the Government are working really closely with the nuclear sector through the nuclear skills taskforce, which includes representation from Rolls-Royce. The whole aim of the taskforce is to support the sector to develop a plan to build the pipeline that we so badly need. It is obviously excellent to see the development of the Nuclear Skills Academy in Derby, which is training apprentices from levels 3 to 6. The noble Lord will also be aware of all the Institutes of Technology bringing together further education, higher education and employers across the Midlands.

Universal Credit

Question

11.17 am

Asked by ***Lord Rooker***

To ask His Majesty's Government what consideration they have given to the proposal from the Joseph Rowntree Foundation and the Trussell Trust for an 'Essentials Guarantee' in Universal Credit.

The Parliamentary Under-Secretary of State, Department for Work and Pensions (Viscount Younger of Leckie) (Con): My Lords, the department has taken note of the report and recommendations. We are aware of the continuing pressures people on lower incomes face. We will spend £276 billion through the welfare system in 2023-24 in Great Britain. From April 2024, benefits will increase by 6.7% and the national living wage will increase by 9.8% to £11.44. We are investing £1.2 billion in restoring local housing allowance rates, which ensure that 1.6 million low-income private renters gain, on average, £800 per year.

Lord Rooker (Lab): My Lords, I remind the Minister that, of the 6.2 million people on universal credit, 38% are in full-time work. Has he read the latest report from Barnardo's on bed poverty, published only in September? The research showed that, due to the lack of an essentials guarantee, 900,000 children share a bed or sleep on the floor. Can he imagine the anxiety and tiredness that this creates? There is a lack of an essentials guarantee, which could be monitored by an independent body. It is not just a question of upping the benefits; there ought to be some serious effort put into this.

Viscount Younger of Leckie (Con): Yes, absolutely. The noble Lord's points chime with what I said earlier about the fact that we understand the pressures that some people are experiencing. The Government have demonstrated their commitment to supporting the most vulnerable by providing one of the largest support packages in Europe. Taken together, the Government are providing total support of £104 billion from 2022 to 2025 to help households. I am aware of the Barnardo's report. What we are doing for the household support fund includes funding to enable local authorities to help people with the cost of essentials in houses, including food, energy and furniture.

Lord Forsyth of Drumlean (Con): My Lords, has my noble friend had the opportunity to read the report of the Economic Affairs Committee on universal credit, which pointed out the injustice of people who moved on to universal credit and who received overpayments under the previous system, through no fault of their own, having their universal credit reduced? Surely at a time of such pressures, the Treasury should write off the sum and acknowledge it was a mistake made by government, for which people who are under very stressed circumstances should not be paying?

Viscount Younger of Leckie (Con): I take note of the point raised by my noble friend. I am not able to comment directly on that, but I will take his points back to the Treasury.

Baroness Ritchie of Downpatrick (Lab): My Lords, will the Minister give due consideration, along with his ministerial colleagues in government, for the need to reform the social security system to ensure that poverty, particularly food poverty and child poverty, is put at the centre of any new policy, to ensure that there is an elimination over the next number of years?

Viscount Younger of Leckie (Con): Indeed, the noble Baroness is right that poverty is incredibly important. Absolute poverty is the Government's preferred measure, as the poverty line is fixed in real terms. There is some debate over how one defines poverty; we are very alert to that, particularly in the field of child poverty. We take it very seriously, and although there is not time to go through all the measures we are taking, it is very important that as many children as possible—all children—are taken out of poverty.

The Lord Bishop of Worcester: My Lords, thinking of the effects of poverty, the Mental Health Foundation has recommended that all front-line workers, including those who work in essential services and government, should be given training and support to know how to respond effectively to the mental health effects of financial stress and strain. Will the Minister agree that this training and support is both vital and necessary?

Viscount Younger of Leckie (Con): The right reverend Prelate is absolutely right. Across government, we are putting a lot of work into tackling mental health, particularly post pandemic. We have a sustainable long-term approach to tackling poverty and, as I said earlier, supporting people on lower incomes. Perhaps I can say to the right reverend Prelate that, in 2021-22, there were 1.7 million fewer people in absolute poverty after housing costs than in 2009-10, including 400,000 fewer children.

Lord Palmer of Childs Hill (LD): My Lords, one group ignored by the Government in the Autumn Statement is unpaid carers. The Chancellor's speech in the other place failed to mention the estimated 10.6 million people providing care, while the statement document itself mentions them only in relation to technical changes. In recent research by Carers UK, 60% of all carers said that they were worried about the impact of caring on their finances, while over a third of carers receiving carer's allowance say they are struggling to afford the cost of food. Will the Minister look at reforming the rate of carer's allowance and taking further steps to prevent eligibility restrictions acting as a barrier to employment?

Viscount Younger of Leckie (Con): Indeed, the noble Lord raised an important point about carers, who play a vital role in our country. We are very alert to this; I will certainly take the point he raised back to the Treasury, but I am unable to comment on whether we can or cannot do it. In terms of carers, we have strong evidence that some carers would also like to take on some work if it is appropriate, so there is much work going on with job coaches, to encourage them to speak to carers to see whether it is possible for them to combine work as well as their caring responsibilities, if it is appropriate.

Baroness Sherlock (Lab): My Lords, the Minister says that the Government are concerned about poverty, and he describes the things the Government have done, but we have to look at the results, because I am afraid that the Government do not get to mark their own homework. If the Minister does not like the Barnardo's study cited by my noble friend, does he like the Joseph Rowntree Foundation finding that last year a million children experienced destitution? What about UNICEF, which found recently that the world's worst rise in child poverty between 2012 and 2019 was in the UK—the worst of the 39 richest countries in the world? Is the Minister proud of that?

Viscount Younger of Leckie (Con): I am certainly not proud of that, but, as I say, there are a number of reports that have come out, and some that have come out recently. I can only repeat again that we are aware of the pressures involved; some families find it difficult even with where they can find the next meal. We are very aware of and alert to that; I think the noble Baroness will know that we are particularly busy in looking at what more can be done to help those in absolute poverty. She will know from the Autumn Statement the measures we have taken forward, and I can only repeat again that we are very alert to this.

Lord Farmer (Con): My Lords, food inflation remains stubbornly high, at slightly over 10%, although thankfully it is 9 percentage points down from its peak in March this year. On this vital household metric, there is significant risk that prices will stay unaffordably high. What measures will the Government take to encourage the price of essential food items to come down from current levels in retail, local shops and supermarkets?

Viscount Younger of Leckie (Con): My noble friend raises another pressure, which we are also aware of. First, tackling inflation is the Government's number one priority, and that is coming down. The Government monitor consumer food prices using the consumer prices index, as my noble friend will know, and in October 2023 CPI food price inflation reported by the ONS was 10.1%, down from 12.1% in September 2023. I reassure him that, through regular engagement, Defra will continue to work with food retailers and producers to explore the range of measures they can take to ensure the availability of affordable food.

Baroness Boycott (CB): As the Minister has just said, and the House agrees, the price of food is very high. Could the Minister explain to the House—or maybe help me—why we have a very good system called Healthy Start, which provides a supplementary bit of money to pregnant mums and kids under four, yet 40% of the people who are eligible for this are not registered, because the system is really complicated? NGOs such as the one I chair, Feeding Britain, have been campaigning for a long time for automatic registration. The money is there; it is not drastically expensive. Could the Minister agree to look into this very simple process that would help a lot of people?

Viscount Younger of Leckie (Con): Again, I will certainly take that point back. The Healthy Start scheme is an important point of the Government's programme. Through healthy food schemes, the Government provide a nutritional safety net to those families who need it most. In terms of the uptake, the latest Healthy Start uptake figures were published, as the noble Baroness may be aware, on 31 October. The uptake for the NHS Healthy Start scheme was 70%.

Classical Music

Question

11.27 am

Asked by ***The Earl of Clancarty***

To ask His Majesty's Government whether they intend to take steps to improve support for classical music, particularly for orchestras and opera companies.

The Parliamentary Under-Secretary of State, Department for Culture, Media and Sport (Lord Parkinson of Whitley Bay) (Con): My Lords, opera, orchestras and classical music enrich our lives. Through its investment programme, Arts Council England is spending almost £60 million per year on classical music and opera. More opera organisations are being funded than previously, and support for orchestral organisations has increased in both number and value, with nearly two dozen sharing over £21 million a year. We have also extended the higher rate of cultural tax reliefs, including orchestra tax relief.

The Earl of Clancarty (CB): My Lords, many of us will no doubt have had recent listening experiences which give us hope that there is a future for classical music in this country. But will the Minister accept that this excellence does not describe the wider narrative of declining educational opportunities and funding cuts, which have led inevitably to a necessarily costlier art form being under considerable threat wherever it is located? Among numerous concerns, can a way can be found to retain orchestra tax relief claims on EEA expenditure as, on top of Brexit, this may otherwise prove disastrous for touring in Europe?

Lord Parkinson of Whitley Bay (Con): Since it was introduced in 2016, £75 million has been paid out through orchestra tax relief. We have extended it at the headline rates for another two years and are grateful to the Association of British Orchestras and many others who have joined the consultation since that was announced in the Budget. Since our departure from the EU, we are of course bringing our tax reliefs in line with World Trade Organization rules. I am grateful for the collaboration we have had. We have made changes on connected party transactions and the going concern rule, and we are keen to continue discussion with orchestras to ensure that they know that only 10% of orchestral output needs to be produced in this country; they will still be able to tour around the world, so that people overseas as well as here may enjoy their brilliant work.

Lord Blunkett (Lab): My Lords, I wonder whether the Minister will reflect, along with the Arts Council, on the situation in the north of England. With the move of English National Opera to Manchester, the Hallé Orchestra being in Manchester and the Liverpool Philharmonic patently being in Liverpool, east of the Pennines is somewhat bereft of a critical mass, which can be absolutely crucial in encouraging young people to come forward into this critical cultural area. Perhaps the Minister will talk to the Arts Council about this.

Lord Parkinson of Whitley Bay (Con): Well, I have had the pleasure of hearing both the Royal Liverpool Philharmonic and the Hallé perform. Of course, as the noble Lord may know, English National Opera has this week announced its intention to base itself in Greater Manchester, as well as continuing its season at the London Coliseum. It is doing so partly because of the great strength of classical music across the north-west of England. The Arts Council, of course, is spending its money more equitably across the country. More organisations are being funded than ever before in more parts of the country, and we want to see people wherever they live benefiting from world-class cultural and artistic output.

Baroness Fleet (Con): My Lords, my noble friend will know that orchestras need a strong pipeline of talent. This will be achieved only when high-quality music education is available for all across all the country, and particularly those with potential. The national plan for music education, which I chaired, will help—when it is finally implemented. Many schools and music teachers are already doing remarkable work, but they would certainly welcome some encouragement. When can we expect to see senior members of government cheering our brilliant orchestras, choirs and young musicians from the front rows of our concert halls, and in schools?

Lord Parkinson of Whitley Bay (Con): I am delighted to tell my noble friend that last night, while some of us were voting on four regret amendments, our right honourable friend the Chancellor was at the Royal Festival Hall enjoying the London Philharmonic Orchestra performing Beethoven's "Emperor" Concerto and Rimsky-Korsakov's "Scheherazade", which he tells me was a fantastic production. So, I hope that my noble friend will be glad to hear that members of His Majesty's Government do go and enjoy the output of our world-class orchestras. I commend her for the work she did on the national plan for music education, which will ensure that more people from this country are able to forge careers and continue producing that wonderful output which makes us all very proud.

Lord Wallace of Saltaire (LD): My Lords, anyone who has heard the annual performance of "Messiah" by the Halifax Choral Society, with the Black Dyke Mills Band and orchestra, will know that we are not entirely without some high-quality music in Yorkshire. The classical music industry is a net surplus invisible exporter for this country, and it is absolutely vital that we keep supporting it. I declare an interest as a former chair of Voces8, which spends quite a lot of time touring on the continent and in North America. Are the Government now within sight of getting rid of these bilateral arrangements, which do not really provide for orchestras and others to do proper tours of the continent—all the way from school orchestras such as the London Schools Symphony Orchestra, which is superb, to classical orchestras as such?

Lord Parkinson of Whitley Bay (Con): We are tripling funding for the Music Export Growth Scheme to more than £3 million over the next two years, which will enable more touring artists to break into new international markets. We are also expanding our Export Support Service to further help creative exporters, including touring musicians. We want our musicians to tour the world so that their work can be enjoyed overseas, just as it is here in the UK—including in Yorkshire.

Lord Berkeley of Knighton (CB): May I ask the Minister to comment at a more grass-roots level? In the last few months, we have lost the Dartington summer festival, which is educational as well; we have lost Oxford Brookes University teaching music; and we have lost a lot of the Cheltenham Festivals' work. I declare my interest as an ex-director of the Cheltenham international festival of music. I was there for 10 years and commissioned works—more than 100—as my successors continue to do. Not only are we losing this commissioning opportunity, which is so important for young composers, but local audiences in places that identify as being under-resourced in music are losing out.

Lord Parkinson of Whitley Bay (Con): On a recent visit to Devon, I had the opportunity to meet the new chief executive of Dartington Trust. The noble Lord is right to point to the brilliant work done by Cheltenham Festivals in his time and subsequently. Arts Council England has maintained its level of funding for Cheltenham Festivals at £217,000 per year, but I would be very happy to meet people from Cheltenham Festivals as well as others.

Baroness McIntosh of Hudnall (Lab): The Minister will be aware that opera and classical music still suffer from a quite widespread perception that they are not for anything other than a very small audience. This makes fundraising extremely difficult for small organisations such as OperaUpClose, with which I declare a personal connection, which are trying to take high-quality music and opera into communities where they are not generally available and to engage them in that work. By the way, they are also commissioning young composers. Can the Government encourage a better fundraising environment for those companies, particularly by encouraging, for example, match-funding schemes such as the Big Give, which closed this week?

Lord Parkinson of Whitley Bay (Con): I congratulate OperaUpClose, which is one of the new operatic organisations that have joined the Arts Council national portfolio. I met another, Pegasus Opera, which is doing great work as well in encouraging new audiences and new compositions so that opera can continue to be a rich art form that people of all backgrounds get to enjoy. The noble Baroness is right that private philanthropy as well as public subsidy plays an important part. My right honourable friend the Secretary of State and I have had meetings with arts organisations and funding bodies to look at ways in which we might be able to create further incentives for giving. But I hope that people will be able to leverage their part in the national portfolio through the Arts Council—not just to spend the public subsidy that is given but also to be part of that network, which they now are.

Lord Vaizey of Didcot (Con): My Lords, leaving aside the extreme concern that the Chancellor is favouring EU composers over British composers—I hope that nobody tells the Prime Minister that—may I ask my noble friend what he is doing to increase diversity in classical music? Will he join me in congratulating the Chineke! Orchestra on its success and all it has done to increase diversity in our orchestras, and perhaps illuminate us regarding the discussions he has had with the Arts Council to continue this impressive progress?

Lord Parkinson of Whitley Bay (Con): The Arts Council did a very valuable study on diversity in classical music—diversity in every form. As I say, companies such as Pegasus Opera are doing important work in bringing people from diverse backgrounds into art forms that we can all enjoy, as are the Chineke! Orchestra and many others. Through its new national portfolio, the Arts Council is investing in more companies and organisations in more parts of the country than ever before, including those led by a more diverse range of people.

Ministry of Defence: Equipment Plan

Question

11.37 am

Asked by ***Lord Coaker***

To ask His Majesty's Government what assessment they have made of the National Audit Office's value for money analysis of the Ministry of Defence's Equipment Plan 2023 to 2033, published on 4 December.

The Minister of State, Ministry of Defence (The Earl of Minto) (Con): My Lords, the National Audit Office's report on the equipment plan states that it does not consider the value for money of the MoD's equipment expenditure or of the specific projects mentioned; nor does it comment on the policy choices that the department makes to develop a plan that meets its future needs. While the National Audit Office report recognises the significant impact that global headwinds and high inflation have had on UK defence, it does not and could not accurately reflect the current or future state of the Armed Forces equipment plan, given that it pre-dates the publication of the defence Command Paper refresh.

Lord Coaker (Lab): My Lords, the NAO report is deeply disturbing at a time when we have war in Europe, conflict in the Middle East and growing threats globally. As we have just heard from the Minister, the MoD just dismisses it as a dated snapshot that does not reflect reality. The NAO says that the plan is unaffordable and that forecast costs exceed the available budget by £16.9 billion. It says that the MoD estimates that the funding gap could range between £7.6 billion and £29.8 billion. How is that just a dated snapshot?

The Earl of Minto (Con): My Lords, the Ministry of Defence certainly does not consider the report in such a way. Where the Ministry of Defence is coming from is that our Armed Forces are operating in an increasingly contested and dangerous world, and we are working hard to deliver what our servicepeople need to keep the United Kingdom safe. We are in a period of great change, which is why the equipment plan budget has increased to £288.6 billion over the next decade. It is about the next decade—10 years forward.

Lord Stirrup (CB): My Lords, one of the most interesting forecasts in the NAO report is not a figure but a word: "Unknown". It is the forecast of the equipment plan cost if it were to reflect all the capabilities outlined in the 2023 integrated review and defence Command Paper refresh. The gap between resource and ambition is serious and leaves us exposed in an increasingly dangerous world. When are the Government going to get a grip on it?

The Earl of Minto (Con): My Lords, I do not buy that the plan is unfundable and unworkable. There is significant flexibility within the figures and large contingencies to allow the flexibility of the correct platforms to be developed over the period of time to meet the defence needs for the state.

Baroness Goldie (Con): My Lords, does my noble friend the Minister agree that it is wrong to look at the defence equipment plan as some kind of rigid, unchangeable proposition, for the very reason he has just indicated? We have to have headroom, which is necessary to allow for flexibility, pursuant to the defence Command Paper refresh, but also because of emerging technologies and our constant journey with artificial intelligence. It is important for everyone to remember that inherent flexibility is actually a strength.

The Earl of Minto (Con): My Lords, it is a great honour to answer a question from my predecessor. She is absolutely right: we are looking at a 10-year timeframe and only 25% of expenditure is committed. We have a contingency budget in there of more than £4 billion.

Baroness Garden of Frognal (LD): My Lords, the equipment plan bandies around some interesting figures: the noble Lord, Lord Coaker, mentioned £16.9 billion, while I picked up £7.6 billion and £29.8 billion—obviously, precision is our watchword. The noble and gallant Lord, Lord Stirrup, picked up the very alarming word "Unknown" for the costs and, where they are known, they are deemed to be "unaffordable". This is not a good projection. Can the Minister project a rather more accurate estimate of the financial cost? In particular, how does the MoD intend to meet the acute skills shortage gap? Without the skills, our brave military personnel are going to be lost.

The Earl of Minto (Con): The noble Baroness makes a good point. In fact, there is considerable investment in skills—particularly in the areas of nuclear and shipbuilding—within these figures, all of which are costed. She is absolutely right that the skills gap that the industry is facing is entirely being funded and down to government.

Lord Browne of Ladyton (Lab): My Lords, following on from the most important question arising from this report, raised by the noble and gallant Lord, Lord Stirrup, I wish to make a couple of points to the Minister and ask him a question. First, this report, like all NAO reports, was agreed by the department.

Secondly, the report specifically says that the equipment plan

"does not reflect all the cost pressures to develop new and support existing capabilities set out in the 2021 Integrated Review",

which was updated in March this year. I recollect that the then Secretary of State for Defence, Ben Wallace, said that the extra £5 billion was welcome but that £11 billion was needed.

Thirdly, the report highlights the fact that the individual services have differing approaches to preparing the forecast in the plan. The Navy and the Royal Air Force include predicted costs for the capabilities that the Government expect from them while the Army includes only what it can afford. These issues need immediate attention, do they not? They should be attended to immediately.

The Earl of Minto (Con): My Lords, I agree with much of what the noble Lord has said. One of the key points about the NAO report is that it does not reflect the aspiration to increase defence spending to 2.5% of GDP when economic and fiscal conditions allow. If one puts that back in, it obviously completely changes the finances.

On the question of consistency, I am in entire agreement. I am very new in this role. I have looked at budgets for the last 40 years and I have never seen a budget that resembles anything like this one, and that is not just the absolute figures. The way in which it is constructed means that it is very difficult to get to exactly the way in which the money moves around. That is something that I commit to the House that I will learn and then lose not much more sleep over.

Lord Craig of Radley (CB): My Lords, can the Minister confirm that none of the cost of the equipment provided to the Government of Ukraine has been or will be met from the defence budget, and that that will include any restocking of war stocks that have been gifted to Ukraine?

The Earl of Minto (Con): My Lords, I thank the noble and gallant Lord for that question. I can confirm that all equipment gifted to Ukraine is well without these figures. Your Lordships will know that, as well as the £5 billion that was granted by the Chancellor, an additional nearly £0.5 billion was given to restock the stockpiles that are required.

Lord Bellingham (Con): My Lords, I wish the Minister all the best in his new appointment. Further to the question from the noble Baroness, Lady Garden, the NAO report refers to supply line risks and constraints caused by skills gaps, plus the shortage of key components. Much of that is the consequence of the war in Ukraine. We must continue the support for that war but, further to the noble Baroness's question, what more can the Minister and the department do to address the skills gap by working with key contractors and suppliers, such as BAE?

The Earl of Minto (Con): My noble friend makes two very good points. One is about the extremely complicated supply chain that the defence industry has to follow and the extreme pressures that inflationary costs bring to bear on that. It is not just headline inflation; the inflationary costs go from raw materials right through to the completed product. It is extraordinary and very varied. The question of the skills gap is at the heart of one of my right honourable friend's tasks in the other place in ensuring that British industry, particularly organisations such as BAE Systems, is sufficiently available to get the skills.

Lord West of Spithead (Lab): My Lords, the report is extremely worrying. The Government seem to have the ability to talk as if these things are not crucial. There is no doubt that we need more money spent on defence. I understand that we are looking at 2.5% when the situation allows. Yes, we are very short of money, but sometimes, if things are so dangerous and worrying, you have to adjust your priorities.

We seem to be lulling ourselves into a false sense of security. If the Government really think that our military is being sufficiently funded and all things are rosy, I am very worried. If that is just what they are saying to put a good face on it here, fine, but I have a horrible feeling that they believe things really are rosy. I ask the Minister to look at the real impact of this NAO report, because there is no doubt that things we have been promised will not come.

The Earl of Minto (Con): My Lords, I assure the noble Lord that the Government take the report extremely seriously, as I said to the noble Lord, Lord Coaker. An enormous amount of work is going on in the department to look at the changing defence requirement for the next 10 years and the impact that it is likely to have on the cost implications. Everybody is fully aware that the Government wish to get to 2.5% as a minimum and I am sure that, when fiscal conditions allow, that will be delivered.

Public Service (Integrity and Ethics) Bill [HL]

First Reading

11.49 am

A Bill to make provision about mechanisms for promoting and protecting standards of integrity and ethics in the public service; and for connected purposes.

The Bill was introduced by Lord Anderson of Ipswich, read a first time and ordered to be printed.

Abortion (Gestational Time Limit Reduction) Bill [HL]

First Reading

11.50 am

A Bill to lower the gestational time limit for abortion from twenty-four weeks to twenty-two weeks.

The Bill was introduced by Baroness O'Loan, read a first time and ordered to be printed.

Schools: Safeguarding

Motion to Take Note

11.51 am

Moved by ***Baroness Jenkin of Kennington***

That this House takes note of the importance of safeguarding children in schools.

Baroness Jenkin of Kennington (Con): My Lords, I thank all noble Lords participating today and those—five or six, I think—who have had to scratch from the debate due to travel issues. I am especially sorry that the noble Baroness, Lady Meyer, was taken ill overnight and is unfortunately unable to be with us.

The importance of safeguarding children is well established and considered vital in underpinning the operation of a safe and functioning society in the UK, so there should not really be any need for us to have a debate about its importance at all in 2023. As a country, we should be able to protect all children from harm both outside of school and, especially, within it. We have in place the protocols, mechanisms and routines. Schools should be able to facilitate children to explore ideas about themselves and the world in ways which do not harm them, but children today find themselves facing a tidal wave of troubles and challenges: poor mental health, body image issues, violent pornography and online bullying for starters. Our children are unhappier than ever. What has gone wrong?

The Government's definition of safeguarding encompasses a holistic range of measures that must be met to ensure children are safe, healthy and able to flourish. *Working Together to Safeguard Children* defines safeguarding as

"protecting children from maltreatment … preventing impairment of children's mental and physical health or development … ensuring that children grow up in circumstances consistent with the provision of safe and effective care",

and

"taking action to enable all children to have the best outcomes".

Outside of the home environment, there is nothing more formative for a child than their experience at school. Consequently, parents place profound trust in schools not just to provide their child with an education but to protect their mental and physical safety too. In turn, teachers and schools take on great responsibility—one that goes well beyond the planning, preparation and delivery of lessons, the marking of work and a focus on academic development. All of those working with children in schools fundamentally shape the environment in which they grow up and are responsible to ensure this environment is, at a minimum, not harming them.

[Baroness Jenkin of Kennington]

This speech starts from the belief that teachers, parents, and carers are united in wanting the best for children, but the world has changed beyond recognition since the legislative framework for safeguarding was introduced. As well-established as safeguarding protocol is in this country, it must be able to adapt in the light of new safeguarding risks facing children today.

Safeguarding is the responsibility of everyone who comes into contact with a child and their family. It is thanks to my noble friend Lady Bottomley of Nettlestone—I am delighted to see her in her place—who, as Secretary of State, introduced the Children Act in 1989, 34 years ago, during which time the world has changed beyond recognition, that we have the legislative framework for the requirements and expectations of child safeguarding in England, reinforced by subsequent legislation in 2004. Section 11 of the Children Act 2004 states that any organisation or function providing services to children is legally required to promote their welfare and to safeguard them. The Government bolstered this legislation with several statutory documents that set out safeguarding duties on schools. The Office for Standards in Education, Children's Services and Skills—Ofsted—highlighted in its 2017-2022 strategy:

"Even more important than ensuring young people are learning well is ensuring that they are safe".

Ofsted expects every school to have a "culture of safeguarding" and a school should be deemed automatically inadequate if these measures are found to be ineffective. Even though this occurs in a tiny minority of schools, Ofsted considers safeguarding to be an utmost priority.

What does this mean in practice? It means several things. Schools are required to work closely and co-operatively with appropriate local authority partners in a local community to ensure no child is able to slip through the net. They are required to adopt an "it could happen here" mentality, which works from the fundamental premise that every adult has the potential to harm a child. Safeguarding does not accept that simply because someone appears harmless, they can be considered to be so. Information sharing is foundational to this; schools are not in the business of keeping secrets. A teacher should never promise confidentiality to a child, and the Government provide six information sharing principles for child practitioners, including accuracy, security and timeliness.

Another vital safeguarding measure is the importance of parental responsibility. The law is clear that no other body is to assume parental responsibility for a child unless the court intervenes. Although there are exceptions, parents are accepted to be the most emotionally, socially and financially invested in the welfare of their children. Those who have parental responsibility for a child should be empowered to make decisions about that child.

We clearly have the infrastructure designed to make sure we keep children safe, so why are Britain's children unhappier than ever? According to the NHS, in 2017, one in nine children aged between seven and 16 had a probable mental health disorder. By 2020, that number was one in six. In 2022, one in four young people aged 17 to 19 reported mental health issues. One in eight children report being bullied online through social media platforms. Our mental health services for children and young people are in a dire state, with children and young people's mental health services buckling under the burden of demand. Do the Government have any plans to develop and implement a strategy to tackle mental health in schools?

Ofsted reports that peer-on-peer sexual abuse in schools is on the rise. Sexual harassment is prevalent in schools, and is more prevalent by boys to girls. This is unsurprising, given the normalisation of sexual violence in online pornography and the role it is playing in shaping a child's understanding of sex and relationships. As the Children's Commissioner reported in January, the average age at which children are first seeing pornography is 13. Some 10% of children surveyed first saw porn age nine. As I am sure we will hear later in the debate, the impact of pornography on destroying young minds cannot be overstated. Anyone who doubts this should look on YouTube at a film called "Raised on Porn", which explains the effect on a child's brain of watching pornography at an age when they are unable to compute what they are seeing. Age verification, brought in with the Online Safety Act, should go some way to resolving this, but the normalisation of porn consumption among young people is nothing short of a safeguarding catastrophe—although I am not, of course, blaming schools for this.

Social media and smartphones have become an integral part of the lives of children and teenagers. This is 24/7: no longer are children likely to be kicking a football around the school field or chatting in the canteen at lunch. Instead, they are disassociated from the real world around them, plugged into an online world with limitless boundaries and unfettered access to potentially dangerous actors across the world. As psychology professor and expert Jonathan Haidt put it, "Childhood has been rewired". His research suggests that social media is making children more fragile, angrier and more likely to take offence. This is having a particularly damaging effect on girls, yet some schools still allow children to walk around the school corridors glued to their smartphones.

If the damage is so clear, why are we not seeing this as a safeguarding issue? I welcome the Secretary of State for Education's pledge to issue guidance cracking down on smartphone use in schools. Can my noble friend the Minister say when this guidance is likely to be published?

As well as the proliferation of poor mental health, porn and social media, many schools are adopting an ideological approach towards sex and gender, and issues around identity. This is leading to a violation of trust between parents and teachers. According to a report by Policy Exchange, 69% of schools are not reliably informing parents when a child experiences gender distress at school and 25% of children are being taught that they can be born in the wrong body. As Dr Hilary Cass has said in her interim report into services for gender-distressed children and young people,

"social transition … is not a neutral act".

Some schools are breaking the safeguarding rules by legitimising withholding vital information from parents, promising confidentiality to children and compromising single- sex spaces—most vital for both sexes in navigating the trials and tribulations of puberty.

Ultimately, schools risk usurping the roles of parents when it comes to navigating highly sensitive cultural issues such as sex, race and gender. Schools have an obligation to remain politically impartial when teaching these issues, but we know they are not always doing this. Statutory guidance exists but many believe it needs to be stronger. Can my noble friend confirm whether this guidance is under review and likely to be updated?

I am sure we all understand the pressures on teachers, who have an enormous responsibility in discharging safeguarding duties as well as providing an academic education. The way that closing schools during the pandemic has devalued the education system in the collective consciousness of the public has resulted in a sense that school is an optional extra, with huge numbers of society's most vulnerable severely absent from it and parents willing to take children out of school for reasons such as politics and holidays. Will my noble friend consider enabling schools and academy trusts to issue fixed penalty notices for poor attendance?

Again, I do not underestimate the pressure that teachers are under, so is my noble friend aware that teachers are being called up for jury service with no concern about the impact on both them and the children they teach? Would she consider raising with colleagues in government whether teachers could be exempt from jury service during termtime, or guidance created for the courts to ensure teachers are not taken out of schools at critical times, leaving children untaught for lengthy periods?

Like many noble Lords, I hear from parents and teachers asking, "How can we let children be children?" For my generation—I think I am still just below the average age in your Lordships' House—that is what we were. We read Ladybird books; we learned to read from Janet and John; our crazes, or our social contagions if you like, were potty putty, gonks and hopscotch. The most edgy thing we did in the break at school was to play kiss chase. That was about as extreme as it got. Thankfully, for my children's generation there was no social media. I am not suggesting for a moment that people of our generation, and my children's, did not experience bullying, violence and abuse, but thankfully they escaped the online world that children, their teachers and their parents have to navigate today. Quirky children are like quirky adults; they should not be bullied or picked on for being different. Whether it is for red hair, sexual orientation or being gender non-conforming, they should be supported to be themselves as they develop from childhood to adulthood.

I know that my noble friend the Minister will share all our concerns about the well-being of our children in schools. We cannot afford to drop the ball on safeguarding, even if that means admitting that mistakes have been made. Society is constantly evolving, and issues which previously did not exist, or may have been thought harmless or negligible, should now be re-evaluated in the light of safeguarding duties. Children deserve to be children and to grow and mature in school, knowing that they are safe from harm. They are already paying the price and it must stop.

12.04 pm

Baroness Morris of Yardley (Lab): My Lords, I very much welcome this debate and congratulate the noble Baroness, Lady Jenkin, on securing it and introducing it so effectively. She started by talking about the importance of safeguarding children. Whatever else we disagree on today in this Chamber, I think we would all accept that that is vital and that we have an obligation to ensure that it is as effective as possible. I agree with the thrust of her arguments completely. I take the view she does on many of the issues facing society and schools now. In the time I have, I want to take up just one or two points.

It is important to remember that, although awful things still happen, safeguarding in schools is far better than it was when I started teaching. We know now what risks children have and the truth is that, for many children, schools are the safest places in their lives. Huge progress has been made and we ought to acknowledge that, because it is an extra burden on teachers. Theirs is a skilled job; you have to learn to do it. I was teaching during that period of having to learn to do it, and it is not easy because it is about changing your culture. By the time you get to an adult, it is quite difficult to change that. One of the ways in which that culture has been changed over the last 20 to 30 years is in having a partnership between government and schools, where society has decided what it wants to accept and Governments have passed legislation and issued guidance so that schools have a framework in which they can make decisions. Without being complacent about what still needs to be done, that is why it has improved.

I want to take up the issues where, as the noble Baroness, Lady Jenkin, said, we have not got it right. We should not dismiss them, so I will comment on one briefly. What happens with online risks is terrible. I do not know how schools deal with them, given the tightly knit communities that they are, but at least now we have agreement in adult society that we must do as much as we can to change that and offer protection for children. We have the beginnings of a legislative framework whereby that can happen.

I want to move on to the issue of sex and gender and self-ID for children in schools. Why do we have no adult agreement for what we want for our children on that? We do not have the legislative framework or the guidance which gives that secure framework against which teachers can make their decisions. The good we have achieved has been through guidance, legislation and adults agreeing what is best for children, which is not happening on whether children and people should be able to self-identify their sex and whether schools should support them.

While we are dithering about issuing guidance and wondering what we should do on this difficult issue, teachers are picking up the pieces every day in their schools. It is not just the odd school or one school in 10: these difficult conversations are taking place in every school. Children are growing up asking themselves these questions and teachers are trying to discharge their responsibility to help them without a framework to guide them. They are dealing with issues such as whether schools should have single-sex spaces in changing rooms, when a male pupil identifies as a girl and wants

[Baroness Morris of Yardley]
to access a safe space. They have to decide on sports issues, where weight and stature matter, so we have single-sex sports. They have to decide whether children can change their pronouns and whether they should advise a child to refer to a gender identity clinic. They even have to make decisions as to whether they should keep that a secret or talk to a parent.

I completely understand that this is not an easy issue for adults, but we should not leave it so that we create such uncertainty for teachers. Many teachers have their own views and are conflicted in what they should say to the children in their charge. Even where the national curriculum says something that I think is straightforward, such as that there are two sexes and children should be taught that in biology, some teachers now do not know if they should be doing that because of the lack of guidance and the advice they are getting. Teachers are dealing with pressure groups, which have opposite ideas to each other, and are essentially taking the legal risk. They are the ones at risk of being accused by parents of teaching things that they do not want their children to learn because, within adult society and government, the framework has not been presented to them.

For young people, growing up is a difficult time when your body is changing. We have been all through it—our children and grandchildren are going through it—and it is not easy. Many young people have a very difficult relationship with their body, but they should not be encouraged to think that changing their sex is an answer to those dilemmas.

Yet in the last 10 years we have seen the number of girls who have been referred to a gender identity clinic going up from 32 to 1,740, while the number of boys has risen from 40 to 626. I do not know why that is happening, although I have read the theories and I can hazard a guess, but I know that those children are in someone's school and have teachers in charge of their pastoral and academic well-being, yet we are not giving them the guidance to make effective decisions.

My own view is that sometimes you think, "Well, let's go for a halfway house and permit social transitioning but not"—as I think we will not do now, following the Cass report—"refer children for puberty blockers". But, once you start children on that journey, you may cause them psychological damage. We also know that the children who are referred to gender identity clinics are statistically far more likely to have mental health issues or be on the moderate to severe autism spectrum. Also, children change their minds. Thank goodness they do—it is part of growing up—so we should not make them commit and then enforce that commitment so that it is difficult to change their minds later on.

It is not just the children asking these questions, wondering whether they have been born into the wrong body, who are suffering because of our lack of providing a legal framework; it is every child in the school. If safe spaces and sports are changed, every child is affected by that.

The last thing I want to say, as strongly as I can, is that guidance is needed, and I hope the Minister can say it is being issued today. As strongly as I feel about children not being encouraged to change sex, I feel equally strongly than children must be listened to, whatever they say and whatever view they express. They must be taken seriously and supported. They must not be bullied, no matter how they present themselves, and links with parents must be maintained wherever possible. I genuinely hope that guidance is issued soon, and that very quickly adults can give guidance to teachers on how they deal with the next generation.

12.12 pm

Baroness Brinton (LD) [V]: My Lords, I congratulate the noble Baroness, Lady Jenkin, on securing this important debate, and I thank her for her comprehensive introduction. It is a pleasure to follow the noble Baroness, Lady Morris of Yardley. In her time as Secretary of State she put children at the heart of education, and she is right that safeguarding today is much better than it was in the past.

Safeguarding has a set of specific meanings regarding the protection of children and vulnerable adults from abuse, neglect and harm, defined, as the noble Baroness, Lady Jenkin, mentioned, in the Children Act 1989, including protecting children from maltreatment; preventing the impairment of children's physical and mental health or development; ensuring that children grow up in circumstances consistent with the provision of safe and effective care; and taking action to enable all children to have the best outcomes.

Ofsted describes good safeguarding practice as

"the culture a school creates to keep its pupils safe so that they can benefit fully from all that schooling offers. A positive and open safeguarding culture puts pupils' interests first. Everyone who works with children is vigilant in identifying risks and reporting concerns. It is also about working openly and transparently with parents, local authorities and other stakeholders to protect pupils from serious harm, both online and offline, and about taking prompt and proportionate action".

The *Times Education Supplement*'s guidance sets out the seven core issues that school governors and staff need to keep at the forefront of their minds when considering safeguarding. They are: child sexual abuse and CSA material online; child-on-child sexual violence and harassment, which sadly is growing worse; extremism and radicalisation; domestic abuse; adverse childhood experiences; trauma; and, last but not least, mental health.

Some 30 years ago, I held the portfolio for education and libraries on Cambridgeshire County Council. That summer, my new safeguarding responsibilities were brought home to me in a shocking case at one of the county's primary schools. A caretaker had been grooming and abusing girls in years 5 and 6 but, when parents complained to the head, the response was, "No, no, our lovely caretaker could never do this". But he had. As word went round the community, more and more former pupils and their parents came forward. The caretaker pleaded guilty, but many more children were abused because of preconceptions by those who should have protected them and investigated the first complaint. I tell this story because too often our own prejudices can miss something key that merits, at the very least, investigation and listening to the child. That is why over the years I have welcomed the strengthening of safeguarding.

School must be a place of safety for children. Sometimes that can mean safe from their parents too. One of the hardest things to do is to hear about or suspect child abuse or child sexual abuse from within the child's home. Parents are not automatically involved in safeguarding reports regarding their children, as it is recognised that families are not automatically a safe environment for children, with some one in 14 children experiencing sexual abuse at the hands of their parents or guardians.

That is why we need mandatory reporting for abuse. Children cannot stop abuse; adults can. The 13th recommendation of the Independent Inquiry into Child Sexual Abuse was for mandatory reporting, which would bring us nearer to the vast majority of other nations. A recent survey of 62 nations found that 80% of those participating had some form of mandatory reporting. Sadly, the Government's response to the IICSA recommendations set out a very weak form of mandatory reporting. With no statutory offence for failing to report, it is not clear who will have the power to investigate or even to talk to the Disclosure and Barring Service.

These and other proposals are too weak to have any effect on reporting rates, so I ask the Minister why the Government are not following the examples particularly of Australia, Canada and others where adults in schools report that they are now more confident in raising suspicions to ensure investigation because of mandatory reporting frameworks. Mandatory reporting helps professional adults responsible for children by giving them a clear framework for taking action. By the way, this is not just a schools issue; it should cover regulated activities such as sports. We are seeing far too many scandals outside schools.

I turn to the safety of children who are LGBTQ+ and the proposals by some, as mentioned by the noble Baroness, Lady Jenkin, to add a statutory notification to parents of any issues relating to their child. Experts say that creating an environment where a child is expected to suppress part of their identity is increasingly regarded by medical practitioners as harmful. Allowing exploration in safe environments away from predetermined outcomes—also known as "affirmative therapy"—is almost always beneficial. And by the way, if the child wishes to walk back from their initial feelings, they can do so without any harm. To ban it might cause further problems.

The Government's own safeguarding guidelines, *Keeping Children Safe in Education*, say:

> "The fact that a child or a young person may be LGBT is not in itself an inherent risk factor for harm"

and that LGBT children have protection from bullying and harassment under the Equality Act. It also says:

> "Risks can be compounded where children who are LGBT lack a trusted adult with whom they can be open".

If children and young people think they will automatically be outed to their parents, they may be less likely to confide in a trusted member of school staff, especially if they fear their parents having a hostile reaction. The NSPCC guidance on safeguarding LGBT children and young people states:

> "You should discuss options with the young person and their parents or carers (as long as this does not put the young person at risk of harm)".

In conclusion, the Government have taken some good steps forward on strengthening safeguarding and guidance, but we must find a way to truly protect our children and young people through strong regulatory practice and ensuring that we continue to put children at the heart of safeguarding.

12.19 pm

Baroness Bottomley of Nettlestone (Con): My Lords, I also warmly congratulate my noble friend Lady Jenkin on initiating this important debate. It is a pleasure to speak after two other such distinguished Peers, the noble Baronesses, Lady Morris—whom I have greatly admired for a long time—and Lady Brinton, who made incredibly important points.

I was not going to raise transgender issues, gender dysphoria and all the rest today, because I always know who I disagree with and there are very few people I agree with—but I entirely agree with the noble Baroness, Lady Morris. So, if asked for my views, I shall simply send people her speech.

Children need a stable, loving environment with consistent adults and long-term care. They need control as well as care and, of course, this should primarily come from the family. But for so many it does not, so the school has a pivotal and changing role. As has rightly been said, the expectations on teachers and head teachers have grown monumentally. Forty years ago, I used to work with Peter Wilson, who later ran Young Minds. We provided training sessions—I was working at the Maudsley—for teachers in inner city schools coping with children in devastating situations, with behaviour they could not understand and parental interventions that seemed to be absent. These teachers thought their job was to teach and were trying to get their heads round the right way to intervene and understand what was happening, how they could be helpful and what they should do.

Now, there is much greater clarity with all the safeguarding rules. The role of the school and the guidance provided are definitely a big step forward. Initially I was sceptical: when responsibility for children went from Health to Education, I was very uncomfortable. At Health, I worked hand in hand with the noble Lord, Lord Laming, and his predecessor, Sir William Utting. As a Minister, I knew exactly what the social services inspectors were thinking and what was happening on the ground. I had to appear to give evidence at the Lambeth children's inquiry the other day. I referred to the social services inspectors who came to the top of the office meeting every week. Now at Education it is a much more fractured relationship. You have a Children's Commissioner, but it is not the same as sitting at the same top table and understanding on a daily basis.

Reference has been made to the Children Act. I pay tribute to our colleague, Lord Mackay, as well as to the noble and learned Baroness, Lady Hale, who I worked very closely with in her early days. She was a force on the Children Act. The Act has stood the test of time and I wondered why. I am able to share this. Every Government in every party have new initiatives, new programmes and new soundbites and, were the

[Baroness Bottomley of Nettlestone]
Government to change next year—which I think is most unlikely—I hope any incoming Government will not feel they have to start again and rebadge everything in their terms.

What is needed for legislation is consistency. The point about the Children Act is that an extraordinary civil servant, Rupert Hughes, had years of consultation with charities, local authorities and others, and took through the legislation. Then my job was largely the implementation, which was a lot of standing instruments and supplementary measures, again consulting with the same people. They had all been on the journey; they could see what had happened and would meet regularly together. In the health service, people despair because they think have found an answer and then the whole thing crumbles because of a new initiative or a new plan.

In praising those with whom I worked, I also really celebrate what is happening now. I greatly admire the effort and commitment at the Department for Education. Various themes come through. Social work is a wretched job: nobody thanks you for suggesting to a parent that they might be abusing a child. Nobody thanks you for leaving a child with parents who were abusing them. This is desperately emotionally draining and difficult and social workers are subject to ritual abuse whenever they get it wrong. So the work on the front line of trying to improve careers and support for social workers is fundamental.

Health visitors—the only people who legitimately can see children at home, take their clothes off and make sure they are physically well—play a crucial part. It is all about the early years. What did the Jesuits say? "Show me the child at seven and I will show you the man". Turning a blind eye, waiting, delaying and hoping it will be all right means that damage goes undetected, unseen and neglected.

Of course, bringing up children is incredibly difficult. I see that with my grandchildren. I do not know how I ever was a mother; I probably was a very bad mother. My grandchildren have grandparents and uncles and aunts and a lovely place where we can go on holiday and be together. It takes a village to bring up a child—yes—but a lot of people do not have a village: they do not have a grandparent, a husband or a consistent neighbour. I simply cannot emphasise enough what we all need to do to help young parents cope. Margaret Harrison started Home-Start, a wonderful organisation. Lord Keith Joseph—the man who made me a Tory, for what it is worth—believed in the cycle of deprivation: that is what he talked about. What did he say about education? He said that the closest thing you have in education to a magic wand is the quality of the head teacher. That must be right. The responsibilities and the leadership they have are absolutely enormous.

I wanted to touch on mental health. It is a huge problem and we have to give it greater focus and understanding.

One-fifth of children leave school without even the most basic qualifications and too many are excluded. Education is your passport for the future: if you cannot read and write—and all magistrates like me will know the number of children in court who simply cannot read the oath—you do not have a hope going forward. We need to make sure that we give better alternative provision to those who are often slung out of school because they are an absolute nuisance and left to wander the streets. Those who need education most are getting it the least.

I want to commend the Online Safety Act, but I dare not. I would like the noble Baroness to have another debate on the subject, so that we can all say the things that we really wanted to say—but congratulations to her again.

12.26 pm

Lord Farmer (Con): My Lords, I also join with everybody in congratulating my noble friend on securing this vital debate and on her excellent and clear opening speech. It is certainly an honour to follow my noble friend Lady Bottomley of Nettlestone.

Safeguarding in schools is highly complex and varied and I will touch on only two areas today, relating to the need for neutrality in our education system. Neutrality implies tolerance of a multiplicity of views; it is therefore precious but fragile and should itself be safeguarded.

Starting with the school strikes against the action in Israel and Gaza, I declare my interest as the Christian vice-chair for the Council of Christians and Jews. It was founded in 1942 by Archbishop William Temple and Chief Rabbi Joseph Hertz when the Holocaust was devastating European Jewry. Her late Majesty the Queen was patron throughout her whole reign.

These strikes raise serious safeguarding concerns, with hundreds of children leaving the security of school, in lesson time, for political protests in towns and city centres. Parents and teachers have very little control over who children meet or what they are exposed to, despite schools' legal safeguarding duties set out in DfE statutory guidance, *Keeping Children Safe in Education*. Large crowds and a politically charged atmosphere mean that any school authorising pupils to attend a protest during school hours cannot be fully in control of the risks to safety and welfare.

Schools also risk breaching the Prevent duty, which requires them

"'to help prevent the risk of people becoming terrorists or supporting terrorism'. This includes safeguarding learners from extremist ideologies and radicalisation".

Allowing children's exposure to potentially genocidal or anti-Semitic slogans such as

"From the river to the sea"

without countervailing views, is the very opposite of safeguarding or good practice, which requires schools to maintain political neutrality.

Ideas must be introduced and then discussed in the round of their historical and political complexity. This is how lesson time on these highly vexed issues should be spent. We need young people to be interested in and well-informed about politics. Stating political positions as self-evident facts intimidates learners and shuts down debate. Can my noble friend the Minister inform the House whether guidance requires ideological issues to be introduced in a well-rounded and nuanced way? Is her department investigating how, precisely, children became involved in these school strikes, how they were made aware of and then joined public protests outside the school gate?

Similarly, is the department investigating how extreme trans ideology, which presents schools with significant safeguarding concerns, was allowed to be adopted as fact, when it too is far from neutral? Teaching children, including in early primary school, about gender fluidity further entrenches the sexualisation of childhood, conjoined as it often is with "sex positivity". The fact of the legal age of consent seems to be ignored despite the key safeguarding reasons underlying it. Our zeitgeist is deeply rooted in the notion that the development of sexuality is indispensable to identity. This is not some fundamental human truth but the idea of Sigmund Freud. To quote Keynes,

"ideas … both when they are right and when they are wrong, are more powerful than is commonly understood. Indeed the world is ruled by little else".

The education system should be a bulwark against pernicious ideas evolving into domineering and bullying ideologies, and not simply affirm both them and the young people persuaded by them.

I am not using the word "ideology" as a slur against a way of thinking that is simply different to my own, but in the Althusserian sense, that

"Ideology represents the imaginary relationship of individuals to their real conditions of existence".

Extreme trans ideology states, "I am what I feel, irrespective of my biology". It is the epitome of expressive individualism and detached from reality. I draw a key distinction between gender dysphoria, where sufferers and psych professionals know there is something wrong, and ideological dispositions held, for example, by bodily intact males who intend to remain so but feel they are female and aggressively demand to be treated as such. Schools should not consider themselves bound by the individual's desire to have this imagined reality validated, even if parents are on board with it. Parents cannot dictate how schools are run for the sake of their child: a decision to affirm a child's chosen rather than biological identity affects the whole school. Other children can feel or even be genuinely coerced into affirming an individual's imagined reality. It confuses young children and stifles the development of older children's critical capacity. Elsewhere, their education requires them to be led by facts and evidence, but in this particular area feelings trump all else.

The potential for harm to the young person who wants to socially transition is a major safeguarding concern. Social transitioning is the first step on the road to physical and pharmaceutical changes that will last their whole lives and are often deeply regretted.

I end where I began, with the need for neutrality. Dr Hilary Cass, as we have heard, concluded that "social transition" is not neutral but a major psychosocial intervention that may affect whether a child's gender distress disappears or becomes long-lasting. In this age of affirmation, the ideologically driven imperative to be kind has blinded schools to their foundational safeguarding responsibilities. Will the DfE guidance make that clear?

12.34 pm

Lord Sandhurst (Con): My Lords, I thank the noble Baroness for obtaining this important debate. My focus today is on sport. I speak as a father and grandfather of girls and boys who are and have been active in sport. In making this speech, I am grateful for the great help I have received from the charity Women in Sport.

Sport develops important fundamental movement skills. It shapes attitudes towards physical activity. Sporting activity is essential if we are to turn our children into adults with healthy lifestyles. Today, we too often fail in this. We must do better or we will have a lot of fat, unhealthy adults. To effect this, we must start at primary school level. There, teachers and coaches must recognise that there are important differences, even at that age, between the sexes.

Even before puberty, the evidence is plain that boys have a physical advantage. Innate testosterone gives speed, strength and stamina. Young boys will generally—not always but generally—be slightly faster and stronger than girls, and that applies throughout the primary school age bracket. To avoid demotivating girls, primary schools must recognise and act on this, giving girls the chance to compete against other little girls. At secondary level, the biological impacts of puberty really kick in. Boys grow much taller, stronger and with greater cardiovascular capacity than their female classmates. For girls, the physical changes of puberty often create embarrassment and awkwardness; periods become a barrier to being active.

As if that were not enough, in mixed sport, girls simply lose the chance to win, to build self-esteem and even to have safe sport. Teenage mixed sport damages confidence and, worse, risks physical health. To safeguard girls, they must be offered proper female sporting opportunities. Differences in sporting performance and in strength between boys and girls mean that girls will not win races if they do not have their own. In team sports—football, hockey, rugby, cricket—it becomes a safety issue. In secondary schools, girls must not have to share their changing rooms with boys, including, if necessary, trans-identifying boys. Teenage girls must have privacy.

It is a stated aim of all the sports councils funded via DCMS to try to get more girls active and to keep them active. Mixed-sex sport in schools undermines that goal. The ChildWise *Monitor Report* of August 2022 found a significant gender gap in access to sports. For example, only 33% of girls aged 11 to 16 said they play football in school, compared to 63% of boys. Single-sex sport is fundamental to fairness, to safety and to participation. Mixed-sex sport can have an adverse impact on girls, even in primary schools.

Let me quote one or two examples of what parents with primary school children have said:

"On sports day, all our races were mixed. No little girls won anything".

"My daughter said, 'what's the point?'"

Olympic swimmer Sharron Davies MBE says she gets messages all the time from parents and coaches who are afraid to say anything publicly about this. School sports days are being made co-ed because they do not want the hassle of dealing with the trans issue.

I repeat that girls-only sports sessions are fundamentally important because they encourage participation. Those in authority in schools really must take this seriously and act to protect and encourage our girls. Effective

[Lord Sandhurst]
safeguarding in schools includes and must include sport. This means recognising the physical differences of the two sexes and giving practical effect to what is needed.

12.39 pm

Lord Hampton (CB): My Lords, it is a pleasure to follow the noble Lord, Lord Sandhurst, and I would like to introduce him to my 12 year-old daughter if he feels that girls cannot compete against boys at sports. I also thank the noble Baroness, Lady Jenkin, for giving us the opportunity to talk on such a vital topic. I can only stand here and admire the expertise in the Chamber.

To say that safeguarding in schools is important is like saying that it is useful to be able to breathe, so I assume that all noble Lords agree on this basic point. As, I believe, the only working teacher in both Houses of Parliament, I thought I would give the House my view of safeguarding from the trenches, as it were. I work in a very high-performing school in a challenging part of Hackney—which, incidentally, bans mobile phones. As Peter J Hughes, our CEO, wrote in his recent book on school leadership:

"Children in our Hackney community die. Children in our hackney community are often routinely stopped under Operation Trident. Children in our Hackney community are strip-searched and subjected to adultification in presumed places of safety. I am very aware that these are three very powerful statements, but they are true and they are every carer's, parent's, teacher's, principal's, CEO's and community's worst nightmare. It is something we cannot and will not ignore".

It is against a backdrop like this that a school has get its safeguarding right. Safeguarding is everyone's responsibility. This is repeatedly drummed into teachers, ancillary workers and students. A change of behaviour in the playground, a dirty shirt collar or a new pair of trainers can be an indicator of abuse or grooming. Every one of those has to be reported, for it could be the final piece in a jigsaw puzzle. Playgrounds are great places to spot how a behaviour has changed, a pattern has emerged, a gang has formed, or a student has been isolated by online bullying. This is the front line—the short-term reaction—but in fact safeguarding is more than that. Schools should be fun places where pupils want to learn and teachers want to teach, and can succeed in this only when we begin to get some of the 1.8 million children who, according to the Children's Commissioner, regularly miss school back into regular attendance. On this topic, I ask the Minister to comment on the Children's Commissioner's call that every school should have a legal duty to report its attendance daily.

As the Government's guidance says:

"It is about the culture a school creates to keep its pupils safe so that they can benefit fully from all that schooling offers".

That can be as simple as not setting an essay question like "A trip to the beach" or "A walk in the woods", because a significant amount of children will not have experienced this and they could feel isolated. We are told not to celebrate the end of term because, for many children, school holidays signal the end of any structure to their life, including a hot meal, and a descent into chaos or just sheer boredom. For the majority, this is not abuse in the classic sense; it is just that parents and carers are too busy or distracted to provide more than the basics of life without any further stimulation or companionship.

Schools are where students can receive kindness, from their friends and teachers, and build and nurture relationships. Any teacher will tell you that it is the genuine connections with students that make them go to work each day. It is also about the environment of the school. The head teacher of my school, Rebecca Warren, always talks about the broken-window syndrome, whereby if something is left unfixed, be it damage or graffiti, more serious damage will follow. We underestimate the impact that school surroundings make on students; if small damages go unrepaired, then there is a sign of a more substantial malaise in the school. I think we also underestimate the subconscious effect on students that, if the school does not care about the building, it does not care about them. This is one thing that does not require much money, just organisation. The worry is that this could be another, as yet unseen, consequence of the RAAC saga.

Safeguarding needs to be baked into the curriculum and this is where Government and schools can do more to help changing behaviours in students, thereby helping from within. There are some lessons that need to be threaded through the term, rather than just saved for PHSCE, the once-a-term day when these topics are normally discussed. Many parents and children see this day as another Inset day, particularly those who hold beliefs that are challenged by the subjects studied then. Surely they are the students who would most benefit from a balanced debate on such subjects. Tender is a charity that uses drama workshops to provide a safe space where young people can rehearse for real-life scenarios and recognise what makes something healthy or unhealthy behaviour. By using this in drama lessons that all students study, say in year 7, all students can get a deep understanding of the issues. This could be more useful than a lifetime of PHSCE days, and I would be interested to hear the Minister's view on embedding more strategies for safeguarding and general well-being into the curriculum, rather than on drop-down days.

I have been trying to be as optimistic as I can around this subject and I agree with the noble Baroness, Lady Morris of Yardley, that things have improved. There are great stories of great people doing great work but, while there are so many children living in poverty, a school is limited to what it can do. I spoke to a safeguarding lead recently who said that if they were one of these children today, particularly the boys, they would be in a gang, for so many of them feel that it is the only way they can earn money, perhaps for their family or even for a new set of trainers, because they see no other way out beyond starting to carry packages for cash. My Lords, we have a lot of work to do.

12.46 pm

Lord Wrottesley (Con): My Lords, I thank my noble friend Lady Jenkin for securing this debate and all other noble Lords for their insightful contributions. Along with my noble friend Lord Sandhurst, I would like to share a few reflections on the role that safeguarding plays in an area that goes hand in hand with the educational setting, that of sport.

Safeguarding is at the heart of what sport embodies, ensuring fair play in a safe and fun environment. For "teacher", think "coach". For "pupil", think "athlete". For "parent"—well, they are irreplaceable. I declare an interest as a parent of children who are in school and take part extensively in curricular and extracurricular sport. I also sit on the other side of the fence, in that I am on the management group of one of our highest-performing Olympic sports. I am chair of one of our sports national governing bodies in the UK and sit on the finance committee of its international federation. Alongside performance, safeguarding is at the core of what we do. In the short time we have available, I will not be able to do justice to the vital work that UK Sport and colleagues in other national governing bodies are doing in this important area. Just last week, I attended its annual PLx conference and one of the sessions was dedicated to this precise topic: safeguarding in sport. Sarah Powell, CEO of British Gymnastics, and Andy Salmon, CEO of British Triathlon, are spearheading this on behalf of UK Sport.

One of the key concerns that all sports are facing, because of the complexity and jeopardy involved with safeguarding, is that coaches are losing the confidence to coach. I am sure that educators would say that teachers are also losing the confidence to teach. The issue is that all sports, whether dealing with adults or children—and not only those that have a robust regulatory framework to work within—need to become safeguarding compliant. We need to require minimum safeguarding standards for any sport, particularly those taking place in an educational or informal setting. Those of us involved in the governance of sport are committed to ensuring the highest standards of integrity, welfare and safeguarding across all sport. We are clear that anyone who does not want to abide by these standards is not welcome in sport.

We all know how important sport is to the nation, and particularly to children. Education is crucial to people's mental health, as sport is to their physical health. I will not rehearse the arguments that place sport at the centre of our national well-being and our psyche.

At its heart, safeguarding is about the protection of people—in this case, children. However, protecting children also protects the adults who interact with them. The NSPCC Child Protection in Sport Unit's definition states:

> "Safeguarding refers to the process of protecting children and adults to provide safe and effective care".

Governmental education institutions and sport national governing bodies need to harmonise. All international and national governing bodies have leadership roles to play, to provide and be provided with guidance and best practice, enabling convergence of policy and legislation.

This brings me on to a topic I have spent quite a bit of time on, albeit through the lens of sports governance: gender versus sex classification in sport. There are some simple concepts that I feel will help build an understanding of this sometimes complex and confusing subject. Gender can be fluid, with up to 107 identified to date. On the other hand, biological sex is essentially binary, determined at birth and known as birth, natal or assigned sex. There are further complexities in defining sex, so how do we, and should we, make sense of this complexity?

Quite simply, the key here is that within safeguarding, there has to be a protected characteristic. In sport, that is female, both from a competitive standpoint and in terms of social and environmental construct. The reason why we have biological male and female categories, not, erroneously, men's and women's—terms generally used in gender identification—is that females are considered to be disadvantaged physiologically. As we have heard from my noble friend Lord Sandhurst, even in amateur recreational sport, it is unfair and unsafe for them to play against biological males. Female sport, whether high-performance professional or recreational amateur, should be a protected category.

I know from personal experience what it is like for my eight year-old daughter—who, by the way, is no shrinking violet—to want to play football but to have to do so in a mixed environment where she is the only girl. Again, as my noble friend also highlighted, this acts as a huge disincentive for young girls to play sport. Trans activists will try to claim that this amounts to discrimination. My clear response to that, in the performance environment, is that trying to exploit ambiguities within classification in sport is tantamount to doping. It is a form of cheating. A person who is born a male, even if they transition pre or post-puberty, will always have a physiological advantage over a biological female. No amount of reassignment will change that.

There will always be differences that lead to unfair advantages. Allowing a biologically male trans person to play alongside natal females, unless all players consent, or allowing that person access to female changing facilities, are not safe practices. Consider when a male trans athlete causes a life-changing injury to a female player because of their vastly differing physiologies. Ask females what they feel about intact males entering intimate spaces such as changing rooms. They feel extremely vulnerable and possibly violated, and I suggest that if anyone allows this to happen, they are in clear breach of safeguarding and are promoting harm.

I am liberal-minded enough to believe that people should be able to express themselves in ways they see fit, as long as it does not have an adverse impact on other people's enjoyment of life or, in this case, an activity in the educational or recreational setting. The key issue here is consent. People who are affected by an accommodation to allow a trans athlete to compete need to consent and not have it imposed upon them against their will by an ill-equipped governing body, or have the issue hijacked by extreme gender ideology and people with aberrant or criminal intent.

12.54 pm

Baroness Eaton (Con): My Lords, I join with others in thanking my noble friend Lady Jenkin for initiating this debate. I also thank all contributors so far for their thoughtful and helpful comments and ideas on this difficult and complex subject. I particularly thank the noble Lord, Lord Hampton, for challenging us with his interesting speech. As a former teacher, I empathised a great deal with his contribution, and I thank him for it.

[Baroness Eaton]

Safeguarding involves thinking the unthinkable. This does not mean that we always assume the worst, but that we attempt to consider all possibilities and mitigate risk where possible. We should not underestimate the role and importance that single-sex spaces play in safeguarding. A simple policy that safeguards and protects girls when they are undressing, sleeping or otherwise vulnerable is providing a single-sex space such as lavatories, changing rooms and dormitories. Yet, we are seeing numerous examples of this simple policy being ignored, often under the guise of being progressive or inclusive. A recent report from Policy Exchange found that at least 28% of secondary schools are not maintaining single-sex lavatories. This is not only a safeguarding issue; it is against the law.

Under the School Premises (England) Regulations 2012, schools are legally required to provide single-sex lavatories and washing facilities for children aged over eight, except where the lavatory facility is provided in a room that can be secured from the inside and is intended for use by one pupil at a time. If a school has changed all previous sex-separated facilities to mixed-sex without fulfilling this requirement, it is in breach of the law.

We hear of incidents such as one at a school where the police were called over allegations that female pupils were sexually assaulted in its gender-neutral lavatories. In another case, a teenage boy was arrested over four allegations of serious sexual assault at an Essex school. A newspaper reported that three of the alleged attacks took place in lavatories used by boys and girls. Also:

"A secondary school has been criticised over its unisex lavatories after a teenage girl was injured when a male classmate allegedly kicked down a cubicle door to photograph her".

Many schools are adopting policies that replace sex with gender and set rules which require staff and young people to ignore or make it taboo to talk about a person's actual sex if they prefer to be referred to as the opposite sex. This conflicts with safeguarding legislation and principles. Staff, pupils and parents raising safeguarding concerns about mixed-sex facilities, often introduced in an effort to get the approval of lobby groups, are dismissed as transphobic or pressured into using language that erases risk. Safeguarding systems cannot work where people are not able to speak clearly and openly about risks. Safeguarding is everyone's business, including that of society as a whole. By not utilising a "safeguarding first" approach, we are letting down our children. Perhaps it is time for a public inquiry.

My noble friend Lady Jenkin and others have talked about how safeguarding is defined in "Working Together to Safeguard Children". This child-centred approach is fundamental to safeguarding and promoting the welfare of every child. A child-centred approach means keeping the child in focus when making decisions about their lives, and working in partnership with them and their families.

Safeguarding and promoting the welfare of children is everyone's responsibility. Everyone who comes into contact with children and their families has a role to play. All practitioners should follow the principles of the Children Acts 1989 and 2004, which state that the welfare of children is paramount and that they are best looked after within their families, with their parents playing a full part in their lives, unless compulsory intervention in family life is necessary.

Everyone who works with children has a responsibility for keeping them safe. No single practitioner can have a full picture of a child's needs and circumstances and, if children and families are to receive the right help at the right time, everyone who comes into contact with them has a role to play in identifying concerns, sharing information and taking prompt action.

Advice from lobby groups regarding keeping information about a child's distress confidential from parents, family and other agencies, and refusing to share teaching materials with parents, directly contradicts safeguarding guidance on information sharing. Fears about sharing information must not be allowed to stand in the way of the need to promote the welfare, and protect the safety, of children, which must always be the paramount concern.

1.01 pm

Lord Roberts of Belgravia (Con): My Lords, I join everybody else in thanking my noble friend Lady Jenkin for securing time for this important and interesting debate.

As a historian, I will give your Lordships a brief oversight into the history of transgenderism, as I think it will help throw some light on the current debate. For the previous 30 centuries or so before the 1960s, while there is plenty of evidence of hermaphroditism and cross-dressing, there have been remarkably few people who genuinely believe that they have become a member of the other sex from the one in which they were born. We have the Roman Emperor Heliogabalus from the early third century AD, who the historian Dio Cassius says asked his doctors to change his sex, but there is no indication that they did this for him. He had five marriages and four wives—he married one wife twice. There is no real indication that he changed his sex, although the North Hertfordshire Museum has him down with female personal pronouns.

Then, there was the very colourful Chevalier d'Éon in the late 18th century, who in 1777, at the age of 49, declared that he was a woman. That was accepted by Louis XVI and the British courts, although it was comprehensively disproven at the time of his post-mortem. In the 19th century, the female Albert Cashier fought in the American Civil War as a man. In 1952, the first actual sex change took place in America, for Christine Jorgensen. Here in Britain, it was in 1960 with April Ashley and in 1964 with the historian Jan Morris, whom I knew tangentially. The very fact that we know these people's names and that they are well known to history is indicative of how rare this phenomenon was.

Then came the 1960s, when post-modernist thought posited that there is no such thing as absolute truth, and that if you feel something, or you think you feel something, that is your truth, which has equal validity to objective truth. The objective truth is that whatever the sexuality you choose—you have the right to choose whichever one you want—you genuinely cannot change your biological sex.

The term "transgender" did not come into existence until the 1990s, but in Britain today, normal Britons who speak about this to their GPs are six times more

likely to say that they are transgender than they were 10 years ago. This has all the hallmarks of a classic example of social contagion, in which the internet, smartphones and social media, the fashion and advertising industries, various pressure groups, TV programmes and some doctors, who undertake mutilating surgery on perfectly healthy bodies, have come together to create what is, essentially, a new ideology—one not anchored in the human experience of the past 3,000 years of recorded history.

The result has been a breakdown in social structures, where men are to be found in women's prisons, women's lavatories, women's changing rooms, as we heard earlier in the debate, and women's sports—places where they do not belong and have no right to be. As with everything to do with transgenderism, common sense seems to fly out of the window.

It is our duty to help teachers safeguard children as much as possible from being unduly exposed to this historically new phenomenon, which we must of course tolerate because we are civilised people, but which ought to be extremely rare, as it has been for three millennia before our present age.

1.05 pm

Lord Shinkwin (Con) [V]: My Lords, I thank my noble friend Lord Roberts of Belgravia for his important historical perspective.

I join others in thanking my noble friend Lady Jenkin of Kennington, not just for securing this important debate but for her courageous commitment to facilitating balanced and well-informed consideration of such vital issues as protecting the integrity of women's sport, defending women's and girls' rights to safe spaces, and exposing, in many cases, the unintended consequences for women and children of the affirmation of gender self-identity, whether in our prisons or the classroom. I say "courage" because, sadly, that is essential to brave the bile and vitriol which anyone who has the temerity to challenge the cancel culture extremism seems to attract. We need only look at how JK Rowling, Maya Forstater, Kathleen Stock and Joanna Cherry KC MP have been treated to know just how true that is.

It is hard to think of anywhere where the extremism, in terms of the intensity of the battle that we have heard about during this debate going on for the hearts and minds of our young people, is more acute than in the classroom and schools. To all intents and purposes, they have become a battleground. Anyone who has been through adolescence knows that it is torment enough without the complexity of considering whether you have been born in the wrong body or should change your gender.

I am not a parent, nor will I ever be one. The very strong probability that any child of mine would have the same condition that I have precludes that possibility. Others with brittle bones make different choices and I respect them for that, but I know I am not strong enough to risk visiting on anyone the pain, shame and discrimination that I have experienced as a result of it. But an inability to speak as a parent should not disqualify me, or anyone else, from voicing concern about the threat posed to the integrity and effectiveness of safeguarding guidance by advice from lobby groups that information about a child's distress—perhaps about their gender—should be kept confidential from parents, family and other agencies, and that teaching materials should be treated as confidential and not shared with parents. Surely, that directly contradicts safeguarding guidance on information sharing.

As a disabled person, I have a personal vested interest in safeguarding progress towards greater equality, whether on the protected characteristics of disability, sex, ethnicity or sexual orientation. Progress on each invariably impacts on the whole. Moreover, I am sure we all have reason to be grateful for the courage of people such as Simon Fanshawe, not just for co-founding Stonewall in 1989 but more recently for reminding us that

"Spaces have to be safe for disagreement, not from disagreement"—

in other words, and I paraphrase, that cancel culture is counterproductive because extremism engenders extremism, which puts progress towards equality as a whole at risk.

What I find remarkable is the extent to which the equality landscape has been transformed in the almost three and a half decades since Stonewall's foundation, in no small part due to its formidable campaigning. I say "equality landscape" because I would not be in the least bit surprised if many people saw issues such as equal marriage as almost a key performance indicator of society's attitudes towards equality per se. That is undoubtedly to Stonewall's credit, but having played so crucial a role in securing that progress, surely it has an equally key role to play—indeed, a responsibility—to safeguard progress towards greater equality. I am not sure it appreciates that. In fact, Stonewall's ostracisation of Simon Fanshawe and its unfortunate association with an aggressive, polarising cancel culture, the promotion of gender self-identity in our schools, and, at best, an indifference to the erosion of women's and girls' rights to safe spaces suggests the opposite.

That is such a shame, because the extremism generated is inevitably provoking a backlash across the piece. In my experience as a disabled person, such a climate is legitimising regressive attitudes towards and treatment of disabled people, which I thought was ancient history. Progress towards equality is so precious. History shows that it is also incredibly fragile. That is why safeguarding progress towards equality for future generations depends on our safeguarding the current generation of children and young people in school today.

1.13 pm

Baroness Uddin (Non-Afl): My Lords, it is an honour to follow my friend, the noble Lord, Lord Shinkwin, and I commend his continual efforts to preserve and safeguard disability rights in this place and outside of it. I thank the noble Baroness, Lady Jenkin, for her leadership in introducing this debate so powerfully on the exponential rise in children's suffering.

I wish to make some general points about safeguarding, and particularly about the impact of Prevent and the Channel programme on Muslim children. Although not currently practising, I have been a social worker since 1984, qualifying and later working mostly in east London. Keeping children safe and protecting their

[Baroness Uddin]
welfare requires a multiagency response and structures, which includes social workers, police, health visitors, local safeguarding boards and medical staff.

Safeguarding has indeed evolved over the decades—many will argue for the better, while many more will cite inadequate resources constraining the support that families under duress urgently require. Around 3 million cases of child abuse are reported each year, with 5.5 million children involved. NSPCC alone has this year received 22,000 referrals of children deemed unsafe. This House has debated childhood experience of trauma on countless occasions, and we know all too well that poverty, physical and sexual abuse, drugs, caring responsibilities, experience of racism and other forms of discrimination, witnessing violence in their homes, online pornography and bullying cause untold damage to children's mental well-being.

These facets are common among all our children across the UK. As with violence against women, such experiences are regardless of class, gender, race and faith. As an experienced social worker working with children and families, I am cognisant of the pressures of managing statutory intervention, which is complex. One cannot overemphasise the trauma and anguish of all families, whether a family member is the perpetrator or not. It causes immense turbulence to the child and their siblings. It has to be said that when, on occasions, cases concerning children from minority backgrounds were dropped or closed, this was often due to a profound lack of understanding of family nuances, cultural norms and practices, as well as of languages, and was frequently based on the premise that somehow children, particularly young girls, were more vulnerable, in part to do with their race and/or culture or faith.

In this context, I wish to raise some matters relating to Prevent and Channel, and the duty that requires all education providers to help prevent the risk of people becoming terrorists or supporting terrorism, which then triggers a multiagency approach to safeguarding when children and young people are deemed vulnerable, and at risk of radicalisation and extremism. The Prevent duty extension to public bodies has led to young Muslim children in particular being seen through the lens of security. As a result, social workers, police officers and perhaps even some teachers believe that children as young as four could be radicalised—equivalent to, "In the womb, potential future terrorists lie". Education institutions have been issued guidance that promotes some mendacious ideas, such as that signs of radicalisation may include references to, "Allahu Akbar", "Alhamdulillah", which means praise be to God, and international conflicts, especially Palestine, as we now see. Teachers who do not have the sufficient training or knowledge go as far suggesting to children that prayers are not obligatory, and a Muslim Council of Britain report cites an example of a science class on nuclear fission where making a bomb was discussed and a child of Muslim faith being the only one to be referred for safeguarding concerns when he discussed it.

Prevent has caused much unnecessary misery and suffering for children and families. One report suggests that, of 4,406 referrals to Prevent in the year to March 2022, 76% were deemed unsuitable for Channel consideration and exited the process. The majority of those—77%—were signposted to other services, including educational and health support.

A report by Rights Watch UK concludes, and I agree, that Prevent, and in particular the introduction of the statutory duty on teachers and other public servants to report signs of radicalisation, is stifling children's fundamental rights and freedoms, including to freedom of expression and belief. It dehumanises many very young children and has a detrimental impact on their mental health, self-confidence and trust in those who have responsibility for their well-being. On many occasions, children are referred without their parents' knowledge or consent. This is not about child sexual abuse or physical abuse; it is about children's thinking and behaviour. There is a clear need for safe spaces where young people can express their feelings and opinions without threat and fear of a safeguarding referral.

The Prevent process is obstructive and creates significant alienation and lack of faith in the education system. To undermine young minds in such a brutal manner violates trust and may cause their long-term mental well-being to suffer, as well as detrimentally impacting their education. We are familiar with the horrifying numbers: in July 2021 one in six children aged five to 16 were identified as having a probable mental health problem in July 2021; now it is almost five children in every classroom. NHS figures show that more than a million children needed treatment for serious mental health problems in the past year, as reported by the *Telegraph* earlier this year.

Children are the product of their environment, home and society. Information on international events will be visible to many homes, online, in schools and in playgrounds, and certainly happening in school council debates all over the country. These matters must not shut down children of any backgrounds or faiths. It is incumbent on all of us to encourage children to express their views without fear of punitive measures on them and their families. Building resilient children who are our future is an absolute obligation to which each of us must be united to ensure our common humanity and a peaceful society.

1.21 pm

Lord Jackson of Peterborough (Con): My Lords, the purpose of schools is to educate, but if there is an even important purpose it is to safeguard the children in their care. The vast majority of teachers take that seriously, but there are concerns that the education that some schools provide is actually a risk to children. We might even ask if "education" is the right word for it. When schooling is captured by an ideological agenda, it leads to poor, uncritical education, and schools can become blind to what really is in the best interest of children, or blind to the risks that they are exposing them to—especially on sexual issues.

The Sex Education Forum is a sort of trade body for the sex education industry. It downplays these concerns, but you would expect that because it is implicated in the failures that we are talking about. Safeguarding concerns should never be downplayed. Clear boundaries and transparency are key principles of safeguarding. If a concern is raised, it has to be

properly investigated. The evidence must be examined, and those with the responsibility of overseeing education must not allow themselves to be fobbed off by people claiming that they can be trusted and that there is nothing to worry about. The source of the problem is third-party organisations which present themselves to schools as experts—organisations offering advice, training, teaching materials and even external speakers to come in and deliver lessons. In reality, many of them are highly partisan campaign groups with agendas that conflict with some of the duties placed on schools. Regrettably, this radicalism has been prevalent in the sector for some time. Jessica Ringrose is a board member of the Queering Education Research Institute, a professor at UCL and an adviser to the School of Sexuality Education, which provides speakers. She was a lead author on an academic paper—I just want to read a few lines from its abstract:

"In this paper we explore our experiences working as a team, who have formed an intra-activist research and pedagogical assemblage to experiment with RSE practices. We draw upon phEmaterialism theory and socially engaged, participatory arts-based research methodologies and pedagogies to explore two examples of arts-based activities that have been developed to de-center humanist, male-dominated, phallocentric, penile-oriented RSE".

This is from a journal called *Reconceptualizing Educational Research Methodology,* and the article is entitled "Play-Doh Vulvas and Felt Tip Dick Pics: Disrupting Phallocentric Matter(s) in Sex Education".

These people are not even pretending not to be activists. We should be much more sceptical about the materials that these organisations are producing. Ringrose's research boasts of one example where 12 year-old girls were tasked with working in groups using sexually explicit images some had received on their phones. These organisations know that they are up to no good. I say that because the School of Sexuality Education was the organisation behind the Clare Page case. When she complained as a mum about what her children were being shown in sex education, the School of Sexuality Education told the school that it was not allowed to show the classroom materials to anyone, citing commercial confidentiality. Not being able to refer to the materials hampered her ability to effectively progress her complaint. Norfolk Council's scheme—a Conservative council—for primary schools instructs children to make plasticine models to illustrate

"a condom catching semen from a penis",

and gives inaccurate information about the age of consent. Six and seven year-olds in Warwickshire—a Conservative council—were asked to discuss the scenario of a girl who enjoys touching herself between her legs when she has a bath. Thankfully, that programme was withdrawn by the council, but only under the threat of legal action. On gender ideology, in addition to the excessively explicit nature of some sex education, we now have the pervasive presentation of gender ideology as a fact. A lesson plan from the group Kapow presented children with a spectrum of stereotypical male and female interests, and instructed them to match their own so-called gender identity in relation to the spectrum. Then it told them to ignore what anybody else says to them about their gender and choose their own.

This distancing of pupils from the influence of others, especially their own parents, is dangerous; it is a safeguarding issue in itself. Parents are often not aware of what is going on with their own kids in sex education. Even when they are, they are often made to feel powerless, and there seems to be a deliberate strategy to reduce the influence of parents over the education of their own children. Some brave parents submit formal complaints, but it is hard for them to get anyone to listen to them and actually change anything. If they work through all the stages of a school's complaints process without success, and if they still have the energy to continue, they can escalate it to the Department for Education, but the department does not seem to handle these complaints well. In one case I have been made aware of, a parent has been waiting for well over a year for the DfE to respond substantially to an escalated complaint. In another, the DfE says that it received the complaint but then lost it. The parent printed it out again and posted it off two months ago—she is still waiting. Perhaps the Minister might agree to meet me to discuss these cases. It seems that the DfE is effectively disempowering parents who are courageous enough to make a stand and, while they wait for a response to their complaints, children continue to be exposed to materials that their parents regard as unsuitable and harmful. The School of Sexuality Education contributed to two of the DfE's own RSHE training modules for teachers. I am afraid we must ask whether the DfE has not been captured and compromised itself. The situation is a mess: it is imperative that the Secretary of State and her Ministers get a grip and act urgently.

1.28 pm

Lord Cashman (Lab): My Lords, I start by congratulating the noble Baroness, Lady Jenkin of Kennington, on her opening speech. There was very little in it that I disagreed with. I want to associate myself with the powerful intervention of the noble Lord, Lord Hampton, a teacher in the London Borough of Hackney, an area I know well. I live in Tower Hamlets, where, for the most part, I also experienced my education.

I was not intending to say this, but I find elements of what I have heard today deeply troubling. They remind me of how people referred to me as a gay man across the decades, and what dehumanisation and defaming does. Yes, I say to the noble Baroness shaking her head; defamation and dehumanisation is a threat to life. I experienced no safeguarding during my school years and subsequently, as a queer, I experienced years of sexual and physical abuse until the age of 15. Therefore, for the avoidance of any doubt, I am passionate about adequate, proportionate and essential safeguarding and empowering young people, especially those who belong to minorities.

I also wish to refute the misrepresentation of Stonewall by the noble Lord, Lord Shinkwin. I am proud to be a co-founder of that organisation and I still support it.

It is absolutely clear to anyone listening to this debate or otherwise, or taking the slightest interest in safeguarding, that addressing the concerns that we have heard about today is important—and addressing them with teachers and other professionals within the schools sector. It is vital that we engage professionals and practitioners in these areas, and not leave it to the

[Lord Cashman]
whims and wishes of others offering, generally, nothing more than anecdotal evidence or allegations in the press.

Due to current levels of interest in young trans people in schools, I wish to recall that, five years ago, the Government committed to producing guidance for schools to support—I repeat, support—children who are questioning their gender. There is a range of views about how best to support young people, but there is clear consensus that guidance is needed. Just yesterday during her Statement in the other place, the Minister for Women and Equalities repeated her assurance that the guidance would be issued "shortly". I hope that this is not another characteristically empty promise from the Government. I say to the Women and Equalities Minister that it is preferable to produce Statements, whether external or within the House, and guidance, based on evidence and not on wild allegations.

Safeguarding, as has been mentioned, has a specific meaning regarding the protection of children and vulnerable adults from abuse, neglect and harm. It is also worth repeating what the noble Baroness, Lady Brinton, said: parents are not automatically involved in safeguarding reports regarding their children, as it is recognised that not all families are automatically a safe environment for children. Some one in 14 children experiences sexual abuse at the hands of their parents or guardians. Again to repeat the noble Baroness, Lady Brinton, creating an environment where a child is expected to suppress a part of their identity is increasingly regarded by medical practitioners as harmful.

Preventing a child accessing beneficial treatment can also be considered to be neglect or abuse, which therefore falls into safeguarding concerns. A 2022 report by Galop, the LGBT+ anti-abuse charity, found that 43% of trans people had suffered abuse at the hands of their family. From listening to some of the statements about trans people, one does not much wonder why. Another study, in 2016, reported that family rejection has a positive correlation with both suicide attempts and substance misuse.

To repeat, and for the avoidance of any doubt, the safeguarding of children and young people must protect all children and young people, without reservation or exclusion. That includes LGBTQ+, non-binary and intersex people. Furthermore, any relationship and sex education in schools must be inclusive, and there must be no attempt to create another Section 28, or Section 2A of the Local Government Act 1986, which caused so much harm to so many people.

While I recognise that most people hold their views seriously and sincerely, I say directly to the Minister that there must be no return to the prejudice and hate of the past. It must be resisted on every occasion. There should be no return to the ignorance—sometimes well-intentioned ignorance—that contributed to the fear that harmed and damaged so many young people. Dehumanisation and defamation do not safeguard anyone, and they result in crimes against persons who are perceived as different.

Trans people are not a threat. Lawbreakers and rule-breakers are a threat, but there are well-organised, well-funded campaigns to demonise, defame and misrepresent LGBT+ people, especially trans people. That is utterly shameful. It will do no good to anyone and will only continue to create misery and harm for LGBT+ young people, trans people and their families. Indeed, it undermines the very society in which we all live.

As a civilised society, we need to protect vulnerable minorities and young people and children who associate or belong within those minorities. Every child and young person should have the inalienable right to be themselves, authentically and without fear. Our futures depend on it: indeed, their futures depend upon it.

Finally, I ask the Minister for an unequivocal assurance that any approach to safeguarding is based on verifiable evidence and not on opinion or anecdote. It is sad that I have to request this, but I seek a categorical reassurance that no child or young person will be left behind, that no child or young person, including LGBT+, non-binary and intersex, will be isolated, and that each child or young person will be enabled, indeed encouraged, to grow, achieve their unique potential and develop their own identity.

1.36 pm

The Earl of Leicester (Con): My Lords, that was a very impassioned speech by the noble Lord, Lord Cashman. I too had not intended to say this, but I want to make the point that I support minorities and the underdog. But six days ago, the noble Lord, Lord Cashman, tweeted on X:

> "The right wing in the House of Lords has organised a debate for the 7th of December on safeguarding in schools! We must push back against these people".

What on earth did he mean? Debbie Hayton, the respected teacher and trans woman, responded:

> "Pushing back against those concerned about safeguarding is maybe not what you meant, Michael?"

So first I congratulate my dear noble friend Lord Stansgate, who is sitting on the Woolsack for the first time. I also thank my kinswoman and noble friend Lady Jenkin for securing this important debate.

Schools are a place where children should be nurtured and nourished, a place of safety where they can grow up slowly, safe from the outside world and some of the more unpleasant and pernicious influences that inhabit our world and, from time to time, cross our paths. Pornography is one of those influences that I am sure every noble Peer and person in this Chamber agrees should not be available in schools—but I am afraid it is; it is readily available.

In my day, as a red-blooded sixth-former, you might chance upon a well-thumbed copy of *Playboy* or *Mayfair*, which were fairly benign, But now, due to the internet and the fact that so many children of the age of 12 or younger have smartphones, a huge panoply of pornography of every type is revealed and is so easily accessed. A young child merely has to tick a box stating that they are 18 or over and they are in.

Internet porn is readily available and there is so much of it. Many more people are exposed to it and/or choose to watch it in the anonymity of their own home, safe from prying eyes. We know from many things that we find on the internet that it is very easy to head down the rabbit hole. It is the same with pornography, with increasing categories of depravity

available. Think of the category of rough sex and go further, to where young girls—it is always young girls—are abused, often by multiple men. I will stop there but, believe me, it gets worse.

What is worrying is the effect that this increased viewing of hardcore porn is having, primarily on men. The *Times* on Wednesday reported on a study by Edinburgh University's Childlight child safety institute, which surveyed 4,500 men from the UK, USA and Australia. More than one in 20 said that they would have sexual contact with a child between the age of 10 and 14 if they knew that it would be kept a secret. Among British men, 1.6% said that they would definitely have sexual contact with a 12 to 14 year-old if it stayed a secret, with 2.6% saying that they would be very likely to. An additional 7% admitted to having sexual feelings toward children, which they did not act upon. The proportion was higher in Australia and higher still in America.

According to the International Society for the Prevention of Child Abuse and Neglect, one in four girls and one in five boys have been sexually abused, with half of them abused by their 13th birthday. I do not know the figures for the UK but I sincerely hope they are not that high. Dr Michael Salter, an associate professor at the University of New South Wales—which co-authored the report with the University of Edinburgh—stated that the rise in online child offences is part of a global trend over the past two decades, adding that an unregulated online environment is a direct cause of sexual offending against children. He said:

"Men who are sexually offending against children are watching a lot more online pornography but also the type of content they are consuming is very deviant … It is more likely to be violent. It's more likely to be forceful".

A report commissioned by Miriam Cates MP and the New Social Covenant Unit, *What is Being Taught in Relationships and Sex Education in Our Schools?*, called for a government review. It highlights how things have changed since the guidance produced by the DfE in 2000, which stated:

"What is sex and relationship education? It is lifelong learning about physical, moral and emotional development. It is about the understanding of the importance of marriage for family life, stable and loving relationships, respect, love and care. It is also about the teaching of sex, sexuality, and sexual health. It is not about the promotion of sexual orientation or sexual activity—this would be inappropriate teaching".

I think we could all feel very happy with that definition of RSE. However, this statement does not feature in the latest 2019 RSE guidance, which contains advice that is not compatible with the definition. Indeed, now, there is strong evidence that actors with a radical ideological position on sex, gender and sexuality are monopolising the RSE third sector, as my noble friend Lord Jackson said.

I shall give your Lordships a couple of examples. My noble friend mentioned Jessica Ringrose from UCL and Amelia Jenkinson, the former CEO of the School of Sexuality Education. He also mentioned the article "Play-Doh Vulvas and Felt Tip Dick Pics". If your Lordships will indulge me, children aged between 12 and 16 were encouraged to draw sexually explicit images, including hands masturbating erections with the words "Wanna see me cum?" and "Now it's your turn—ride me". The academics went on to record that

"there was a sense of solidarity"—

that is ironic—

"amongst the girls … as they discussed the pictures they had received from 'random old men' on Snapchat".

Is that really acceptable? Certainly not, particularly for the 12 and 13 year-olds in the classes who were needlessly exposed to this sort of thing having mercifully never experienced it in real life.

It gets worse. Another provider, Split Banana, gives lessons to children of the same age in which it describes four types of sex: penis-in-vagina sex, oral sex, masturbation and anal sex. Its lessons created an equivalence for heterosexual couples between anal and vaginal sex, which has the potential to mislead children about whether anal sex is a universally enacted, desirable or safe sexual practice.

I leave noble Lords with this. In preparation for this debate, I asked my own children at what age they had first been exposed to pornography and how it had affected them. Only one was happy to answer: when she was 12, looking at an iPod Touch Christmas present with her male cousin of the same age. Her reaction? She threw the iPod across the room. She was terrified.

1.43 pm

Baroness Browning (Con): My Lords, I, too, welcome and thank my noble friend Lady Jenkin of Kennington for bringing this debate to the Floor of the House today. I draw the House's attention to my interests in the register on autism as, unsurprisingly, it is that subject that I wish to address today. I will focus on the safeguarding of autistic children in the education system. This will include both those with an autism diagnosis and those as yet undiagnosed, for whom an assessment and a subsequent plan to support the child through education—as outlined in the Autism Act 2009—are often needed right through their transition from childhood into adulthood.

In her representation of today's debate, my noble friend Lady Jenkin outlined in some detail the Government's definition of safeguarding in the context of education, so I will not repeat it now. However, I emphasise—not for the first time—that autism is a spectrum and the needs of an individual should be assessed by those with significant training and qualifications in autism and neurodiversity. Autism is different. It is a communication disorder. Both physical and mental bullying are common. The individual's development of a sense of self can be slower than that of their peer group. Idiosyncratic behaviour, such as echolalia, can attract unwanted hostile responses. Timely assessment, diagnosis and support are essential.

Schools will struggle to carry out their statutory duties in respect of safeguarding until there is rapid improvement in this process. Research from Pro Bono Economics suggests that, in 2021-22, £60 million of public money was wasted on special educational needs and disability tribunals brought by people who had come forward with an assessment or not received one at all. Had those tribunals not responded to the request or rejected them, they could have financed around

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9,960 places in SEN units in mainstream schools each year with the money wasted. Even when people get an assessment, many have to go to tribunals to get the support that their child desperately needs.

Ofsted, the schools inspectorate for England, describes what good safeguarding in an education setting should look like:

"It is about the culture a school creates to keep its pupils safe so that they can benefit fully … A positive and open safeguarding culture puts pupils' interests first. Everyone who works with children is vigilant in identifying risks and reporting concerns. It is also about working openly and transparently with parents, local authorities and other stakeholders to protect pupils from serious harm, both online and offline and about taking prompt and proportionate action".

I, too, will make some comment, or place some interest, on the question of gender. The Cass review, in particular, demonstrated the shockingly disproportionate high number of autistic children seen by the Tavistock and Portman gender identity service. I emphasise this: 48% of referrals to that clinic had autistic characteristics. Yet, in the course of its work, nobody questioned why. What is going on here?

I am pleased to see that the Department of Health is addressing the Cass review, and I am grateful to the Minister at the Dispatch Box today for the time she has allowed me, in private, to outline to her some of the similar problems experienced in some state schools for autistic children, using information given to me directly by the parents of those children. As I discussed with my noble friend, particularly as far as girls are concerned, parents have been blocked out from what has been going on in schools and has affected their own children. These have included things such as breast binding, initiated by teachers without the parents' knowledge; referral to doctors, who have prescribed puberty blockers; and things such as changing pupils' names. Some of these issues have led to court cases. But we know that pubescent teenage girls sometimes struggle with the changes in their bodies and peer pressure to conform—how much more so for autistic girls, who have found these complex issues so much more difficult.

I will try to shed some light on this with a quote, from a post on autism and gender identity written by Jane Galloway. She has suggested that:

"With such a huge number of autistic girls identifying as trans, whether that be as a boy or as non-binary (a feeling that they identify as neither male or female, although they will biologically be female or in rare cases, intersex) we have to ask questions about why this is.

Growing up in a culture soaked by internet porn, in which women are expected to conform to highly sexualised, performative femininity, young girls are often facing impossible beauty standards. They are seeing a world of toxic gender roles that speak neither for nor to them"—

that also applies to young lesbians as well as autistic girls. She goes on to say that

"the temptation to reject it outright … is overwhelming. Add in the differentiated theory of mind",

documented by Francesca Happé many years ago, which throws light on the way the autistic mind works, and it is no wonder that, for

"girls who are autistic … many of them will assume 'Because I am not this, I must … be that'".

Perhaps that question should have been asked at the Tavistock clinic. It is certainly a question that I hope we will ask in education, as far as autistic girls in classrooms are concerned. In the guidelines that are to come, I hope my noble friend will be able to influence that.

1.50 pm

Baroness Walmsley (LD): My Lords, I thank the noble Baroness, Lady Jenkin, for her "canter around the issues", as she put it to me the other day. I have always believed that there are very many ways of being human and that we should bear that in mind when dealing with anyone who travels a different path from our own and treat all with equal respect. This applies to gender identity and sexuality as well as every other characteristic. This principle underlies my reaction to the issues raised by many in this debate.

When considering how to go about helping and protecting children as they find their way through life, I always go back to the UN Convention on the Rights of the Child and, of course, the "best interests of the child" principle, enshrined in UK law thanks to the noble Baroness, Lady Bottomley of Nettlestone.

I am quite surprised that I am the first person in this debate to mention the convention. Relevant to this debate is recommendation number 25 in the concluding observations published in June this year by the UN Committee on the Rights of the Child in its latest report on the UK's compliance with the convention to which we are signed up:

"Noting the decision taken by the State party to prevent the implementation of the Gender Recognition Reform (Scotland) Bill, the Committee recommends that the State party recognize the right to identity of lesbian, gay, bisexual, transgender and intersex children and put in place measures to ensure that all adolescents can enjoy their freedom of expression and respect for their physical and psychological integrity, gender identity and emerging autonomy. In this context, the State party should ensure that any decisions regarding systems of gender recognition for children are taken in close consultation with transgender children and in line with children's rights, including the right to be heard and the right to identity, in accordance with their evolving capacities, with free and informed consent and appropriate safeguards."

In the light of our long-standing commitment to the UN Convention on the Rights of the Child, under which the committee evaluates our compliance every five years, will the UK Government take notice of that recommendation? It is relevant to how schools respond when children express any kind of gender distress, uncertainty or lack of conformity with others. It means that schools must listen to children, consult them about how they wish to live and, as far as possible, ensure they are treated in the way that makes them feel most comfortable. When this is done, it helps avoid distress and mental health problems in the future.

The committee further recommended that we urgently address the long waiting times faced by transgender and gender-questioning children in accessing specialist healthcare services, including for mental health, to improve the quality of such services and ensure that the views of such children are taken into account in all decisions affecting their treatment.

I will now use the opportunity of this debate to turn to a fundamental safeguarding concern of mine, which is to ensure that sexual abuse of children is never

ignored or brushed under the carpet. That can happen only when there is a legal duty to report what is known or suspected—a deterrent from allowing fears of reputational damage to make a person keep silent. When a child has the courage to disclose sexual abuse, he or she just wants it to stop. If that does not happen, the child, as well as continuing to be abused, loses all trust in those in whom they have confided.

In respect of this, I had great hopes of the Independent Inquiry into Child Sexual Abuse, IICSA, and it has not disappointed. However, when I look at the Government's response, I do not believe they have responded appropriately. IICSA's recommendation 13, "Mandatory reporting", says:

"The Inquiry recommends that the UK government and Welsh Government introduce legislation which places certain individuals—'mandated reporters'—under a statutory duty to report child sexual abuse where they: receive a disclosure of child sexual abuse from a child or perpetrator; or witness a child being sexually abused; or observe recognised indicators of child sexual abuse.

The following persons should be designated 'mandated reporters': any person working in regulated activity in relation to children (under the Safeguarding and Vulnerable Groups Act 2006, as amended); any person working in a position of trust (as defined by the Sexual Offences Act 2003, as amended); and police officers.

For the purposes of mandatory reporting, 'child sexual abuse' should be interpreted as any act that would be an offence under the Sexual Offences Act 2003 where the alleged victim is a child under the age of 18".

There follow exceptions, which I will not go into.

IICSA then says:

"Where the child is under the age of 13, a report must always be made. Reports should be made to either local authority children's social care or the police as soon as is practicable".

Here is the crucial bit:

"It should be a criminal offence for mandated reporters to fail to report child sexual abuse where they: are in receipt of a disclosure of child sexual abuse from a child or perpetrator; or witness a child being sexually abused".

That is what I was hoping for.

Initially, the government response sounded hopeful. It said:

"We accept the need for mandatory reporting; the government has agreed to implement a mandatory reporting regime for child sexual abuse which will be informed by a full public consultation".

It further says:

"We agree that implementing a new mandatory reporting duty could improve the protection and safeguarding of children, as well as holding to account those who fail in their responsibilities. A successful reporting regime will ensure that the individuals and organisations with a responsibility to safeguard children provide a robust and consistent response to abuse, putting the needs of children first".

The consultation outcome was published in May and the Government published their guidance, *Keeping Children Safe in Education*, in September. Having read this guidance carefully, I would say that it is, on the whole, excellent—well-written, clear and comprehensive—but it lacks one thing and has one inconsistency, which is crucial. I will come to that in a minute.

The guidance says:

"If staff have any concerns about a child's welfare, they should act on them immediately … follow their own organisation's child protection policy and speak to the designated safeguarding lead (or deputy)".

It then outlines the actions which can be taken, including making a referral to statutory services. It tells staff what to do if the DSL is not available, including

"speaking to a member of the senior leadership team and/or … local authority children's social care … Staff should not assume a colleague, or another professional will take action and share information that might be critical in keeping children safe".

It gives criteria for that.

It then goes on to describe what local authorities should do. I was pleased to read that it makes it clear that the Data Protection Act 2018 and UK general data protection regulations do not prevent the sharing of information for the purposes of keeping children safe and promoting their welfare. It says:

"Fears about sharing information must not be allowed to stand in the way of the need to safeguard and promote the welfare of children."

So far so excellent. However, I noted the difference between all this advice and the section on female genital mutilation:

"Whilst all staff should speak to the designated safeguarding lead (or a deputy) with regard to any concerns about female genital mutilation (FGM), there is a specific legal duty on teachers. If a teacher, in the course of their work in the profession, discovers that an act of FGM appears to have been carried out on a girl under the age of 18, the teacher must report this to the police."

In other words, it is against the law to fail to report that a child has been physically mutilated, but it is not against the law to fail to report or act on the knowledge or suspicion that a child has been sexually abused—and that is much more widespread. I wonder if the Minister can tell me: what is the difference?

2.01 pm

Baroness Wilcox of Newport (Lab): My Lords, it is a pleasure to follow the noble Baroness, Lady Walmsley, and I associate myself with much of what she said, including on the importance of the United Nations Convention on the Rights of the Child. I would also like to congratulate the noble Baroness, Lady Jenkin, on securing this debate on such an important subject: safeguarding children in schools. Safeguarding has a set of specific meanings regarding the protection of children and vulnerable adults from abuse, neglect and harm. Although I am no longer a working teacher—unlike the noble Lord, Lord Hampton, who made many excellent points in his speech—I did do 35 years at the chalk face, so I know a little bit about it.

The *Times Educational Supplement* recently identified seven key safeguarding areas that schools should be concerned with now, as mentioned earlier by the noble Baroness, Lady Brinton. On child sexual abuse material, a recent report from the Internet Watch Foundation found a 64% increase in reported webpages containing confirmed child sexual abuse images in 2021 compared to 2020. Almost seven out of 10 instances involved children aged 11 to 13, and 97% of the images were of girls. It is absolutely vital that everyone working with children is aware of the online risks, has appropriate training and ensures that children have suitable routes to support and reporting.

Next, there is child-on-child sexual violence and harassment. The excellent organisation Girlguiding released figures in 2021 stating that two thirds of their

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members who were girls and young women experienced sexual harassment in school. Schools should maintain the attitude that such behaviours could already be taking place, and foster environments where children feel safe and empowered to report abuse.

Turning to extremism and radicalisation, the number of children arrested in relation to terrorism offences has reached its highest level since records began. According to the Home Office, 16% of arrests under the Terrorism Act 2000 in the year ending 2022 were of people aged under 18. Young people are particularly vulnerable to radicalisation, and schools need to be aware of key factors: social isolation, precarious emotional ties, and violent peers. Labour have called on the Government to provide an update to the counter-extremism strategy because it has not been updated since 2015. Although the Prevent strategy has been updated, there is a need for a wider counter-extremism strategy.

A growing issue, one that we have talked about many times in this place, is domestic abuse. It has been reported that 62% of children living with domestic abuse are directly harmed by the perpetrator of the abuse, while one in five children has lived with an adult perpetrating domestic abuse. By witnessing the abuse of others, or by being harmed directly, children may experience a wide range of severe and long-lasting effects. All school staff must follow their school's child protection policy and contact the police if they suspect that a child is in danger.

A term that has become increasingly used to describe safeguarding issues but did not exist when I began my teaching career in Brixton in the 1980s is "adverse childhood experiences", usually shortened now to the acronym ACEs. These include a range of experiences, such as being the victim of abuse or neglect, parental abandonment through separation or divorce, or having a parent with a mental health condition. Several studies have shown that if a person has experienced four or more ACEs, compared to someone with none, they are more likely to experience poor health and well-being into adulthood.

Another safeguarding issue is trauma, which can occur when a child witnesses or experiences overwhelming negative events. Developmental trauma includes children who are neglected, abused or forced to live with family violence, or who experience high parental conflict. It affects all aspects of a child's development, including the brain, body, emotions, memory, relationships, learning and behaviour. Schools provide the opportunity for children to experience safe and predictable environments and to interact with staff and peers with kindness and compassion.

Another issue that has grown hugely in the past decade, particularly during and after the experiences of the pandemic, is mental health issues in children and young people. In July 2021, the NHS identified one in six children aged five to 16 as having a probable mental health problem—an increase from one in nine in 2017 and equivalent to about five children in every classroom. Schools should help children develop good relationships and build resilience when dealing with setbacks, and all staff need to be given training on common issues, including anxiety, low mood and depression, self-harm and conduct disorders. The Government's education plans aim for mental health support for children in only half of their schools, but Labour's plan is to ensure specialist mental health support in every school to stop problems before they escalate.

Five years ago, the Government committed to producing guidance for schools to support children who are questioning their gender. There are a range of views about how best to support young people, and we have heard them here today, but the clear consensus is that guidance is needed, as mentioned by my noble friend Lady Morris and, in fuller detail, by my noble friend Lord Cashman. I support many of his comments, particularly his observations about his personal experience, of which he spoke most movingly.

During the passage of the Schools Bill, which did not complete its journey through the legislative process, one area that should have made it into law was the provision of a home-school register, a long overdue addition to the safeguarding measures. During the passage of the Bill, I spoke about the increasing number of children receiving an education outside the classroom and how they could be missing out on the benefits a school environment brings. Safeguards are vital in helping to make sure children are not being taught in unsuitable or dangerous environments. Allied to the register is the large numbers of children who have not returned to school since the pandemic: last year more than one in five children were persistently absent.

It was therefore quite disturbing to hear on Tuesday from a Permanent Secretary in the Department for Education that Downing Street blocked its legislating for a register of children not in school. This Government have consistently failed to get them back to school, even though every day of learning matters. It appears that the block on this legislation came directly from No. 10, despite cross-party support and a request from the DfE.

I can clearly state that the next Labour Government will legislate to identify children out of school, and ensure that families and schools get the support needed to guarantee an excellent education for every child and seek to safeguard those children and young people. We will bring an annual safeguarding review in for schools in England, as concerns about children's safety and well-being are being missed due to infrequent Ofsted inspections. There has been a promising, positive reaction to this idea of annual safeguarding reviews and we will consult closely with the education community. Safeguarding is the number one priority of everyone in education.

2.10 pm

The Parliamentary Under-Secretary of State, Department for Education (Baroness Barran) (Con): My Lords, I join other noble Lords in thanking my noble friend Lady Jenkin of Kennington for securing this debate on the importance of safeguarding in our schools. Your Lordships have set me an impossible task in trying to address all of points raised; anything I am unable to cover in the time available I will follow up in writing. We have heard some very powerful and reflective speeches from across this House, and I thank all noble Lords who contributed to this important debate. As we heard, safeguarding our children both inside and outside of

school is absolutely crucial. As the world evolves, so do the safeguarding risks our children face, and the challenges our schools face evolve with them.

As your Lordships are aware, all schools and colleges in England must have regard to the statutory safeguarding guidance Keeping Children Safe in Education. The guidance sets out the policies and procedures that teachers and leaders should follow to protect children while in school. Our schools and colleges are also part of a wider framework of safeguarding that includes local authorities, health and the police, each of whom have statutory duties to safeguard and promote the welfare of children. Safeguarding is everybody's responsibility and everyone who comes into contact with children and their families has a role to play in identifying concerns, sharing information and taking prompt action.

Given the focus of the debate, I start my remarks on issues around the Government's gender questioning guidance, but I aim to cover some of the wider points raised. I particularly thank the noble Baroness, Lady Morris, who I think was the first to raise this subject, for her tone and reflections on how much has improved over many years. I know she would agree that we owe a lot to every teacher for their part in that.

A number of noble Lords raised the issue of schools supporting the social transition of pupils who are questioning their gender, including my noble friends Lord Farmer, Lord Jackson of Peterborough and Lord Shinkwin—I was sorry to hear his remarks on the re-emergence of discrimination towards disabled people. I also thank my noble friend Lord Roberts for his historical perspective on these issues. Obviously, how we respond to such requests is an important safeguarding and welfare question. As your Lordships pointed out, recent years have seen a large increase in children seeking support. The number of children seeking medical support for gender dysphoria was 20 times higher in 2022 than a decade ago. Schools are not taking decisions about clinical support, of course, but that does not mean that decisions about social transition can be taken lightly. Actions such as changing names and pronouns are serious and can have a wider impact.

The Cass review highlighted the importance of safeguarding, stressing that social transition

"is not a neutral act",

and that

"it may have significant effects on the child or young person in terms of their psychological functioning".

But the review also says that not supporting social transition is also not a neutral act. There is not clear information on the long-term effects. That is the background to the guidance that we have been working on carefully and will be publishing for consultation shortly. I am not going to pre-empt that publication in this debate, but I can reassure noble Lords that the issues raised today are very much being considered in its development.

Safeguarding and welfare will be absolutely central to decisions taken by schools, considering the implications for individuals and for the wider school. In that context, biological sex is vitally important. Single-sex spaces, as raised by my noble friend Lady Eaton, need to be maintained; school sport, which was touched on by my noble friends Lord Sandhurst and Lord Wrottesley, must be safe and fair. It is also vital that parents should be engaged in decision-making about their children. That is a principle at the heart of other school processes, such as deciding on support for children with special educational needs, and it is just as important here. Parents are the ones who know their children and their wider lives best. I have to disagree with the noble Baroness, Lady Brinton, about keeping this information from parents, except in absolutely exceptional circumstances.

I should also emphasise that we will be holding a consultation on the guidance. While I am confident that we have considered the issues raised, we really do want to gather a full range of views. I hope that your Lordships and members of the public will respond to let us know the extent to which it clarifies these issues for schools because, as we heard from the noble Baroness, Lady Morris, and others, there is a central point about having certainty and clarity for teachers on how they should respond to these very sensitive and difficult issues.

The noble Lord, Lord Cashman, asked me to clarify that we will not repeat the mistakes of the past. Just to be clear, the guidance will aim to support and protect all pupils, including those who are questioning their gender. One of the key principles to have guided this work is that schools and colleges should be respectful and tolerant places, where children are treated with compassion and understanding, and where bullying is never tolerated. But at the heart of this guidance is child safety and well-being; as I mentioned, the interim Cass report confirmed that we need better information about the long-term implications of social transition, which is why the Government are advocating a cautious approach.

My noble friend Lady Browning talked about the gap in evidence in relation to girls with autism, and the noble Lord, Lord Cashman, asked that we would be driven by verifiable evidence. One of the challenges in this area is that there is insufficient evidence—I hope the noble Lord would accept that—and even less uncontested evidence. It is important that we work to fill that gap, but at the heart of the guidance will be the best interests of the child and clarity for teachers and other staff in schools about how to respond.

Going more broadly to the issues in the RSHE curriculum, noble Lords have raised the issue of sharing those materials with parents. We have brought forward the review of the RSHE curriculum. As I think your Lordships know, we have appointed an independent panel to advise the Secretary of State on the introduction of age limits on teaching sensitive topics. The Secretary of State wrote to all schools in October, clarifying how they can share materials with parents while remaining within copyright law. My noble friend Lord Jackson of Peterborough raised this; I would be delighted to meet him to discuss the complaints he has been made aware of and how the department has responded.

He also mentioned that the School of Sexuality Education was a contributor to the department's guidance. Can he point me to that reference? We have checked our list of expert contributors and it does not appear to be on it. If he has evidence of that, clearly I will happily take that away if he could write to me.

[Baroness Barran]

The Secretary of State's letter also set out:

"The copyright act allows schools to copy resources proportionately, for the purposes of explaining to parents what is being taught",

including

"via a 'parent portal' or … a presentation".

The letter was also clear that, where parents cannot access the parent portal or presentation,

"schools may provide copies of materials to parents to take home on request, providing parents agree to a … statement that they will not copy the content or share it further except as authorised under copyright law".

The points made in this letter will be reflected in the updated statutory RSHE guidance, which schools will have a duty to have regard to.

My noble friend Lady Jenkin asked about the timing of the publication of the guidance and the consultation. We will be consulting on it in the near future and expect the guidance to be published in 2024, with the consultation being launched early in the new year.

I turn to online safety in schools. My noble friend Lord Leicester and the noble Baroness, Lady Wilcox, raised the issue of children's access to pornography, which obviously is a serious concern, for all the reasons that your Lordships have set out this afternoon. We have updated the *Teaching Online Safety in Schools* non-statutory guidance this year, which covers how to teach all aspects of internet safety, not just those relating to relationships, sex and health.

Your Lordships will be aware that the Secretary of State has committed to introducing a ban on mobile phones in schools. My noble friend Lady Jenkin asked about the timing. We expect to provide more information on that early in 2024 and, obviously and importantly, the Online Safety Act takes a zero-tolerance approach to the protection of children and will ensure that platforms are held responsible for the content that they host.

The noble Lord, Lord Cashman, also raised the question of whether schools would return to the days of Section 28. I can reassure the noble Lord that that is absolutely not the case. The RSHE guidance is clear that pupils should be taught LGBT content at an age-appropriate point in their education and that they should know about protected characteristics within the Equality Act. However, we need to provide clarity for schools and colleges and, importantly, reassurance for parents on the content that is being taught.

I turn to mandatory reporting, which was raised by the noble Baronesses, Lady Brinton and Lady Walmsley, I think there might have been a slight confusion in relation to the *Keeping Children Safe in Education* guidance, which obviously has been published and therefore predates the Government's publication in relation to the child sexual abuse mandatory reporting duty that we have committed to introduce.

We have committed to working across government to consult on how this will work in practice, sensitive to the wider impact of this and burdens, and will work through whether action is needed at an organisational or individual level, or indeed at both. In developing our proposals, which we have consulted on, we looked carefully at the experiences of other countries that have mandatory reporting, including Australia and Canada, as the noble Baroness, Lady Brinton, asked.

My noble friend Lady Jenkin and the noble Baroness, Lady Wilcox, raised the very important issue of children's mental health. Obviously, that is a real priority and concern. We are investing an additional £2.3 billion a year in NHS mental health services by March 2024, which will help 345,000 more children and young people to access mental health support. We are also committed to supporting schools with our offer of senior mental health lead training, which has already been accessed by over 14,000 settings.

Of course, the other side of mental health is resilience and well-being and I will pick up on the comments of my noble friends Lord Sandhurst and Lord Wrottesley about the importance of sport and PE, and indeed wider extracurricular activities, in building children's and young people's resilience.

I turn to the issues of extremism in relation to safeguarding schools, raised by my noble friend Lord Farmer and the noble Baroness, Lady Uddin. The House may be aware that I and fellow Ministers have had several discussions with faith and non-faith primary and secondary school providers, particularly in relation to the impact of the conflict between Israel and Hamas on both Muslim and Jewish and other students in a range of settings. As a result of these meetings, we have agreed to prioritise actions to tackle inappropriate misinformation and disinformation about the conflict, particularly on social media, and we will be issuing guidance to teachers and schools on promoting tolerance and addressing racism and anti-Semitism. We have also updated our Educate Against Hate website, which provides resources and lesson plans for schools to support them in holding these very sensitive discussions.

My noble friend raised the issue of protests held in school hours. The Government are absolutely clear that it is not acceptable that children are not in school because of political activism. I am aware, having spoken to head teachers, how much pressure they are under from some parents, and indeed some colleagues, to allow children out of school. I think it is very important, as a Government, that we are clear that we support them and that they are doing the right thing to make sure that their children are in school.

The noble Baroness, Lady Uddin, raised some concerns about Prevent. I can only disagree with the vast majority of what she said. Prevent plays an important part in safeguarding. Going back to the opening comments of the noble Baroness, Lady Morris, about how far we have come, we are able to intervene much earlier, which any parent of a child at risk of being drawn into extremist ideologies, whether far right or otherwise, would be grateful for. We feel that it is a really important plank and part of that progress.

I want to say a word about attendance, raised by the noble Lord, Lord Hampton, and others. There is always a competition to be the most important thing, but this is certainly one of the most important things for us in the department: partly because of the issue of safety—children are safest when they are in school; partly because of the impact on their education, and we are very grateful to the Children's Commissioner for her recent work on the impact on children's attainment

of missing school; and also because we know that children become invisible to all services when they are not in school. School is such an important place.

It was genuinely moving to listen to the noble Lord, Lord Hampton, talk about the care that teachers take, spotting how children behave in the playground, the corridor and the classroom, and that is where we need them to be.

My noble friend asked me about whether we would consider schools and academy trusts issuing fixed penalty notices for poor attendance. Obviously, schools can ask local authorities to issue those fines and local authorities have the legal responsibility to do that. If my noble friend has examples where that is not working well in practice, I would be happy to take those up.

I am out of time, but I will say quickly to the noble Lord, Lord Hampton, that we do support the Children's Commissioner's recommendation of mandatory participation in the attendance data; some 87% of schools send in their data voluntarily. I thank my noble friend Lady Bottomley for her incredible work on the Children Act, which has been such an extraordinary influence in this country, and to share her recognition of the work of social workers, health visitors and teachers.

In closing, I thank again all noble Lords who spoke on this debate and, on your Lordships' behalf, all those who work in schools, teachers in particular, for their work every hour, every day, to keep our children safe.

2.31 pm

Baroness Jenkin of Kennington (Con): My Lords, we have had rather more than just a canter round these issues. We have had some very powerful contributions from many noble Lords, with a wide variety of focuses and expertise. Like my noble friend the Minister, I was interested to hear from my noble friend Lady Bottomley about the background and history of the Children Act and the importance of consistency. We have all mentioned the lived experience, as it is now called, at the coalface, described by the noble Lord, Lord Hampton. We are grateful to the noble Baroness, Lady Morris, for bringing the importance of the guidance for gender questioning, and to hear the response from the Minister. She has covered all the issues: sports; single-sex spaces; pornography; RHSE materials and parental access; the understanding of autism—particularly of girls; sexual abuse; the perspective of the noble Lord, Lord Roberts, as a historian; and gender distress and how to deal with it in the school environment. I am grateful to the noble Lord, Lord Cashman, for advertising the debate so widely on social media. We are all grateful to the Minister for her typically thoughtful response to the debate.

Motion agreed.

UK-Rwanda Partnership

Statement

The following Statement was made in the House of Commons on Wednesday 6 December.

"With permission, Madam Deputy Speaker, I will make a Statement about the Government's plan to stop the boats and tackle the vile trade in people smuggled across the channel.

Three weeks ago, the Supreme Court handed down its judgment on this Government's migration and economic development agreement with Rwanda. In that judgment their Lordships upheld the view of the High Court and the Court of Appeal that it is lawful to relocate illegal migrants, who have no right to be here, to another safe country for asylum processing and resettlement, but upheld the judgment of the Court of Appeal, which means that the Government cannot yet lawfully remove people to Rwanda. That was due to the Court's concerns that relocated individuals might be 'refouled'—removed to a country where they could face persecution or ill treatment. We did not agree with that assessment, but of course we respect the judgment of the Supreme Court.

The Supreme Court also acknowledged that its concerns were not immutable and were not an aspersion on Rwanda's intentions, and that changes may be delivered in the future that could address its concerns. Today I can inform the House that those concerns have been conclusively answered and those changes made, as a result of intensive diplomacy by the Prime Minister, by the Foreign, Commonwealth and Development Office, by the Attorney-General's Office and by the Home Office. We have created a situation that addresses the concerns.

Our rule of law partnership with Rwanda sets out in a legally binding international treaty the obligations on both the United Kingdom and Rwanda within international law, and sets out to this House and to the courts why Rwanda is and will remain a safe country for the purposes of asylum and resettlement. This is a partnership to which we and Rwanda are completely committed. Rwanda is a safe and prosperous country. It is a vital partner for the UK. Our treaty puts beyond legal doubt the safety of Rwanda and ends the endless merry-go-round of legal challenges that have thus far frustrated this policy and second-guessed the will of Parliament. I want to put on record my gratitude to President Kagame, Foreign Minister Biruta and the Rwandan Government for working with us at pace to do what it takes to get this deal up and running with flights taking off as soon as possible.

Rwanda will introduce a strengthened end-to-end asylum system, which will include a new specialist asylum appeals tribunal to consider individual appeals against any refused claims. It will have one Rwandan and one other Commonwealth co-president and be made up of judges from a mix of nations selected by those co-presidents. We have been working with Rwanda to build capacity and to make it clear to those relocated to Rwanda that they will not be sent to another third country.

The treaty is binding in international law. It also enhances the role of the independent monitoring committee, which will ensure adherence to obligations under the treaty and have the power to set its own priority areas for monitoring. It will be given unfettered access to complete assessments and reports and to monitor the entire relocation process, from initial screening to relocation and settlement in Rwanda. It will also develop a system to enable relocated individuals and legal representatives to lodge confidential complaints directly with the committee.

[Baroness Jenkin of Kennington]

But, given the Supreme Court judgment, we cannot be confident that the courts will respect a new treaty on its own, so today the Government have published emergency legislation to make it unambiguously clear that Rwanda is a safe country and to prevent the courts from second-guessing Parliament's will. We will introduce that legislation tomorrow in the form of the Safety of Rwanda (Asylum and Immigration) Bill, to give effect to the judgment of Parliament that Rwanda is a safe country, notwithstanding UK law or any interpretation of international law.

For the purposes of the Bill, a safe country is defined as one to which people may be removed from the United Kingdom in compliance with all the United Kingdom's obligations under international law that are relevant to the treatment in that country of people who are removed there. This means that someone removed to that country will not be removed or sent to another country in contravention of any international law, and that anyone who is seeking asylum or who has had an asylum determination will have their claim determined and be treated in accordance with that country's obligations under international law.

Anyone removed to Rwanda under the provisions of the treaty will not be removed from Rwanda, except to the United Kingdom in a very small number of limited and extreme circumstances, and should the UK request the return of any relocated person, Rwanda will make them available. Decision-makers, including the Home Secretary, immigration officers and the courts, must all treat Rwanda as a safe country, and they must do so notwithstanding all relevant UK law or any interpretation of international law, including the human rights convention; the refugee convention; the 1966 International Covenant on Civil and Political Rights; the 1984 UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment; the Council of Europe Convention on Action against Trafficking in Human Beings, which was signed in Warsaw on 16 May 2005; customary international law; and any other international law, or convention or rule of international law, whatsoever, including any order, judgment, decision or measure of the European Court of Human Rights.

Where the European Court of Human Rights indicates an interim measure relating to the intended removal of someone to Rwanda under, or purportedly under, a provision of Immigration Acts, a Minister of the Crown alone, and not a court or tribunal, will decide whether the United Kingdom will comply with the interim measure. To further prevent individual claims to prevent removal, the Bill disapplies the relevant provisions of the Human Rights Act 1998, including Sections 2, 3, 6, 7, 8 and 9. The Bill is lawful, it is fair and it is necessary, because people will stop coming here illegally only when they know that they cannot stay here and that they will be detained and quickly removed to a safe third country. It is only by breaking the cycle and delivering a deterrent that we will remove the incentive for people to be smuggled here and stop the boats.

This legislation builds on the Illegal Migration Act 2023, which the House passed this summer, and complements the basket of other measures that the UK Government are employing to end illegal migration—for example, the largest ever small boats deal with France. Tackling the supply of boats and parts, the arrest and conviction of people smugglers, and illegal working raids have all helped to drive down small boat arrivals by more than a third this year, even as the numbers are rising elsewhere in Europe.

Parliament and the public alike support the Rwanda plan. Other countries have since copied our plans with Rwanda, and we know from interviews that the prospect of being relocated out of the UK has already had a deterrent effect. This will be considerably magnified when we get the flights to Rwanda. This treaty and this new Bill will help to make that a reality, and I commend this Statement to the House."

2.32 pm

Lord Coaker (Lab): My Lords, here we are—emergency legislation in three weeks, emergency press conferences and an emergency reshuffle. I ask the noble Lord, Lord Sharpe, if he is happy to be taking this legislation through your Lordships' House. A Home Secretary has gone, saying the Bill does not go far enough; the noble Lord's colleague—until 24 hours ago—resigned, saying it is doomed, describing it as

"a triumph of hope over experience";

and the noble Lord, Lord Murray, is deafening with his silence. How on earth have we reached the situation where three Home Secretaries have gone to Rwanda but not a single asylum seeker? Which side of the open warfare in our governing party is the noble Lord on? Is it "too soft", "too draconian", "it won't work" or even "who knows", because I do not know and I do not think anyone else does? The way we are going, the former Home Secretary may be right that the Government are heading into an even more catastrophic situation.

This is the third Bill on channel crossings in two years. Why will this one work? How much have we spent so far on all of this, and how much is the budget? The Government refuse to say. It is apparently supposed to be published in an annual statement. Should we not be given some figures now on the anticipated budget?

Can the noble Lord confirm that the Government ended up being lectured by the Rwandan Government about not breaking international law, with the Prime Minister even telling the 1922 Committee last night that this is why he could not go further by not leaving the ECHR because the Rwandan Government would not have it? Can the noble Lord detail the exact legal position enshrined in the Bill with respect to the Human Rights Act and the ECHR? Can the noble Lord confirm that it is still the case under this legislation that an individual will still be able to challenge an asylum decision in the courts?

Given the central importance the Government have attached to Rwanda, can the noble Lord give us some numbers? Is all of this for a scheme that will likely cover less than 1% of the people who arrive here to claim asylum? How many people are going to be covered? The treaty itself says that capacity is limited in Rwanda, with the Court of Appeal saying it would be 100, and that talk of thousands was political hyperbole. Can the noble Lord inform your Lordships how many it is?

On the BBC this morning, no Minister could be found for the "Today" programme. I do not know whether they asked the noble Lord, Lord Sharpe, but certainly nobody was available for the 8.10 flagship interview. Perhaps it is a good job. The former Home Secretary was available, by the way, and appeared and gave her views very forcefully. On BBC TV, the Cabinet Minister, Chris Heaton-Harris, was asked if Britain could end up receiving Rwandan refugees before it deports anyone there. He answered, "I honestly do not know the answer to that question". Perhaps the noble Lord will be able to tell us.

We need to clear the asylum backlog, go after criminal gangs, tackle problems at the source and come to new arrangements with our European neighbours. Does the noble Lord agree with me that, on this issue of the channel crossings that we all wish to see resolved, we have public policy chaos and a Government ripped apart by division? The current Home Secretary says that Rwanda is not the be-all and end-all. Well, that is not what the reality is for the noble Lord. He will be faced with arguments, including, I suggest, in your Lordships' House, around whether we have a full-fat solution, a semi-skimmed solution or a skimmed solution. Perhaps the noble Lord can tell us which brand of milk he thinks the treaty should actually be.

The country deserves better than this from its Government. The people deserve better than this. Real problems deserve real solutions based on competence, human rights and respect for international law. The noble Lord has had to come today to defend a policy rubbished by his boss, as we know. We have utter chaos, and that is in no one's interests. This morning, we had a Prime Minister pleading for understanding and support, coming up with the brilliant policy initiative that the way to solve this problem is not to have one Minister but two: one for legal migration and one for illegal migration. I wonder which member of the No. 10 Policy Unit came up with that idea, and whether the noble Lord himself was consulted about that as a solution to the problems.

The plain fact of the matter is that this is real chaos. We have a Rwanda policy that, in the words of their own former Ministers, is doomed and unworkable. Our nation needs and deserves better. There is no sign this Government will be able to deliver it.

Lord German (LD): My Lords, there is no doubt that this is a mess. It is a mess in which the Government have written themselves a project so bad that we are ending up with an ineffective, expensive and unworkable policy which lacks in human decency. What we should be receiving is a Government that give us a workable solution which is speedy, effective and humane. Adding to that, and worse, it is now pitting the Government against our courts. This is a dangerous path to follow. It risks our freedoms and liberties under the law against excessive overreach from Government.

Disapplying legal protections to a specific group is a threat to anyone who may need the protection of a judge in future. Human Rights are universal: either you have them or you do not. If you take them away from one group of people, they are no longer human rights; they are rights for some humans. It is a dangerous, slippery slope when the Government seek to disapply them to asylum seekers. Which group of people out of favour with the Government will be next?

In effect, we are being asked to believe that the facts established by the Supreme Court are now wrong—in essence, that black is white. When the Supreme Court ruled unanimously that Rwanda was unsafe, based on a whole range of facts, but said that at some stage in future things might be different, there was no expectation that this could be achieved by last Monday. One simple line taken from the Government's Statement proves just that:

> "Rwanda will introduce a strengthened end-to-end asylum system".

It does not say "has introduced" but "will introduce". The fact will be demonstrated by seeing a new system in place, not simply by producing a statement of expectation. The Statement is simply incorrect in stating that these Supreme Court matters are "concerns". They are not; they are facts. That is what our highest court ruled on: the facts. Will the Minister acknowledge that the Supreme Court ruled on the basis of facts?

Let us have some facts. By when, exactly, will Rwanda have introduced a strengthened end-to-end asylum system that meets all the international treaties, laws and rules to which the United Kingdom has signed up? What will be the cost of the creation of a new, specialist asylum appeals tribunal in Rwanda and who will meet it? What will be the ongoing annual costs of the running of the tribunal, including the salaries of judges from across the Commonwealth?

How much are the UK Government setting aside for paying for the provision of legal services to asylum seekers in Rwanda? How will the judges be selected? How can we be assured that the judges will be mindful and live to the protection rights of people with protected characteristics—for example, sexual orientation, women who have experienced gender-based violence, religion or race?

There is an alternative to this unworkable, expensive and inhumane policy. We need an effective asylum system where decisions are made swiftly and accurately. We need effective, humane removals of those whose asylum claim is refused. We need a range of workable safe routes so that people who need protection can get to the United Kingdom safely, including an enhanced resettlement scheme, a humanitarian visa and a more effective family reunion route. There is an alternative.

The Parliamentary Under-Secretary of State, Home Office (Lord Sharpe of Epsom) (Con): My Lords, if there is an alternative, I did not hear one.

The noble Lord, Lord Coaker, asked whether I was invited on to the "Today" programme. I am sorry to disappoint him, but I was not. And I was not necessarily as disappointed as the noble Lord was.

The partnership with Rwanda is now set out in a new treaty, which is binding in international law. It has been agreed by the UK and the Government of Rwanda and was worked on by both parties with close care and attention. It was laid in Parliament yesterday. The treaty, crucially, addresses the conclusion from the Supreme Court on the risk of refoulement to those relocated to Rwanda. I will come back to the Supreme Court decision soon.

[Lord Sharpe of Epsom]

The treaty is binding in international law, and it makes it clear that Rwanda will not remove any individuals relocated there to a third country, ensuring that there is no risk of onward refoulement. Relocated individuals will be given safety and support in Rwanda. Those not granted refugee status or humanitarian protection will instead be granted permanent residence so that they are able to stay and integrate into Rwandan society. Once individuals are relocated to Rwanda, they will have their needs looked after while their claims are being considered, including having safe and clean accommodation, food, healthcare and amenities. People are free to leave if they wish and will not be detained.

Far from pitting us against the courts—as the noble Lord, Lord German, alleged—we are responding to them. The treaty does not override the Supreme Court's judgment; rather, it responds and adapts its key findings to ensure that the policy can go ahead.

The court recognised that changes might be delivered in future which would address the issues that it raised. These are those changes. We believe they address the Supreme Court's concerns and now aim to move forward with the policy and help put an end to illegal migration. I remind noble Lords that the Supreme Court's judgment was based on a very specific time in the past; a lot has been done since.

The new treaty—again, this goes to some of the facts that the noble Lord, Lord German, was asking for—also sets out how the independent monitoring committee has been enhanced and will play an important role. It will ensure that obligations under the treaty are adhered to. It will also, in practice, prove that the monitoring committee has the power to set its own priority areas for monitoring and will have unfettered access for the purposes of completing assessments and reports. It will monitor the entire relocation process from the beginning, including initial screening, to relocation and settlement in Rwanda.

The monitoring committee will be responsible for developing a system to enable relocated individuals and legal representatives to lodge confidential complaints directly to the committee. These can be regarding any concerns about the treatment of individuals or alleged failure to comply with the obligations in the treaty. This will provide an additional layer of assurance and ensure that the asylum decision-making process is robust and identifies any issues at an early stage. The monitoring committee will undertake real-time monitoring of the partnership for at least the first three months.

The treaty will also strengthen Rwanda's asylum system through a new appeal body under its courts system—the noble Lord, Lord German, asked me about that. That will have Rwandan and UK Commonwealth co-presidents, all decisions will be reviewed by the co-presidents and they will be responsible for selecting and appointing the ordinary judges, who can be a mix of nationalities. There will be an independent expert on asylum and humanitarian protection law, providing advice to the panel before any appeal is determined for the first 12 months.

Our aim must be to deter the dangerous and illegal journeys to the UK and disrupt the business models of the criminal gangs. I think we can all agree on that.

The noble Lord, Lord Coaker, asked me about costs. I remind the House that the costs here are massive—and they are not just in money but also in lives. We saw an example of that in French waters only a couple of weeks ago. So far, however, the UK has provided Rwanda with an initial £140 million to assist in the economic development of Rwanda and with upfront operational costs. We will not be providing a running commentary on other costs. Those focusing solely on the costs of this partnership are missing the point. It is incredibly frustrating for British people and the taxpayer to spend billions of pounds to house illegal migrants in hotels. Criminal smuggling gangs are continuing to turn a profit using small boats, and we must bring an end to that.

The Prime Minister, far from pleading, was explaining this morning, and he explained that there is a narrow exception

"if you can prove with credible and compelling evidence that you specifically have a real and imminent risk of serious and irreversible harm".

We have to recognise that as a matter of law, and if we did not we would undermine the treaty we have just signed with Rwanda—as the Rwandans themselves made clear.

To conclude, the numbers to this scheme are uncapped, so I cannot give any estimation of how many may end up in Rwanda. To reassure the noble Lord, Coaker, I am on the side of the Government. I drink my coffee black and do not like milk very much. He will also be very reassured to hear that my happiness is abundant.

2.48 pm

Lord Cormack (Con): My Lords, the seventh paragraph of the Statement that was delivered in another place yesterday says that the Government will introduce legislation next week

"to give effect to the judgment of Parliament that Rwanda is a safe country, notwithstanding UK law or any interpretation of international law".—[*Official Report*, Commons, 6/12/23; col. 433.]

Can my noble friend explain precisely what that means? Will he also share with the House how we will measure success, and whether we expect to have 100 people sent to Rwanda next year, or 200, or 1,000? Could he give us a rough idea of what figure the Government expect to reach to be able to achieve success?

Lord Sharpe of Epsom (Con): I point my noble friend to Clause 1(6) of the Bill, which actually outlines what international law means; it is a non-exhaustive list. Regarding how we will judge success, I think we are already seeing some. As the Prime Minister mentioned this morning, a number of crossings have been deterred, and the numbers are down on last year. Success in its entirety will involve putting the criminal gangs out of business once and for all.

The Lord Bishop of Worcester: My Lords, I apologise for being slightly delayed for the consideration of this Statement. My understanding is that the Bill disapplies certain sections of the Human Rights Act 1998 to allow public authorities to operate in a way that is incompatible with international obligations. If that is the case, surely that means disregarding the human

rights of people seeking asylum, and I struggle to see what human rights can mean if they are not conferred on all human beings. I will be grateful if the Minister can comment on that. I will also be grateful—as would all of us on these Benches—for some clarification of the status of tier 2 ministry religion visas, in light of the new financial threshold. Perhaps it would be possible to have a meeting about that.

Lord Sharpe of Epsom (Con): Regarding the second point, that question was asked the other day in a different context, and I suggested to the right reverend Prelate who asked me that perhaps the Church should look at paying its vicars more. After all, it is one of the more sizeable landowners in this country and can probably afford it. The Human Rights Act is disapplied in a couple of very specific circumstances, which are outlined in Clause 3 of the Bill.

Lord Liddle (Lab): I will follow up on the question from the noble Lord, Lord Cormack. Setting aside the arguments about the law and human rights and all that, the basic justification for this policy is that the Rwanda scheme would offer a deterrent which is necessary to stop channel crossings. It is therefore of fundamental importance to the argument to know how many people can be sent to Rwanda under the scheme. The Court of Appeal said that 100 were allowed. Will the Minister therefore contradict the Court of Appeal and tell us the real number, and will he tell Conservative Central Office to stop putting out propaganda that thousands of people can be sent to Rwanda, which is just ridiculous?

Lord Sharpe of Epsom (Con): From the noble Lord's last remark, it sounds like he has answered his own question. However, as I said in my opening remarks, the numbers are uncapped. I do not know the context of the Court of Appeal judgment in this regard, so I cannot comment on that.

Lord Kerr of Kinlochard (CB): I have two questions for the Minister. First, Article 19 of the treaty says that we are under an obligation to take a "portion"—an odd word—of Rwanda's "most vulnerable refugees". A two-way flow of people is envisaged, some going from here to Rwanda, some going from Rwanda to here. Can the Minister give us a forecast ballpark figure of how many Rwandans are coming? Secondly, he will remember that last year the State Department found the Government of Rwanda guilty of arbitrary murder, torture, cruel and inhuman and degrading punishments, arbitrary detention in harsh and life-threatening prison conditions, carrying out murders and kidnappings abroad and harassing domestic and international human rights groups. Our Bill requires us to deem Rwanda a safe country. Will he tell us why the State Department is wrong?

Lord Sharpe of Epsom (Con): In answer to the first part of the noble Lord's question, Section 19 of the treaty indeed says that the UK will resettle refugees from Rwanda to the UK. This is not new; it was also set out in the MoU. As I have mentioned before from this Dispatch Box, Rwanda currently hosts and provides for around 130,000 refugees from across the region, and as part of our joint commitment to the principles of the refugee convention, and through the partnership, we have offered to settle particularly vulnerable refugees hosted in Rwanda, whom we could better support. Rwanda is leading in supporting the UNHCR and neighbouring regions with those in need of resettlement, and the UK will support these best efforts as its partner. We expect the number to be small. However, the UK resettles many refugees each year, through safe and legal paths from those first safe countries which accommodate many people who seek their sanctuary. As the MEDP has not yet been operationalised, there have not yet been any refugees from Rwanda resettled in the UK as part of it.

The second part of the noble Lord's question was on the State Department. We have also just published a new treaty, which contains many legally binding elements. In the light of that, I imagine the State Department will reconsider.

Lord Jackson of Peterborough (Con): My Lords, will the Minister confirm for the House that this country has a dualist regime? We do not just cut and paste international treaties but pass legislation in our domestic legislature. Does he further agree with me that the Prime Minister is right that we do not subjugate that to a foreign legal entity—the European Court of Human Rights? My concern, which the Minister might want to address, is that we have had four general election manifestos by our party that committed to reducing immigration, including the last one, on which we won a strong mandate. Is it not a concern that our horizons for how we shape our legislation are shifting from that—the mandate of the people—to the ECHR and now, potentially, the political vagaries of politicians in Rwanda?

Lord Sharpe of Epsom (Con): In response to the first part of my noble friend's question, I again repeat the Prime Minister's words. He said this morning, and I agree, that:

> "If the Strasbourg court chooses to intervene against the express wishes of our sovereign parliament … today's new law … makes clear that the decision on whether to comply with interim measures issued by the European court is a decision for British government Ministers and British government Ministers alone".

The good news is that it is the Government, and not criminal gangs or foreign courts, who decide who should come and who should stay in our country. It is very unreasonable to disagree with the Prime Minister's remarks. In response to the second part of my noble friend's question, I say that this is clearly a subject of considerable importance, which has been politically dominant in recent years. I therefore commend the Government's efforts to try to solve it.

Viscount Waverley (CB): My Lords, I will add a point of detail to the question posed by my noble friend Lord Kerr. The Government are aware that, until recently, some individuals were not being deported to Rwanda from the UK in relation to genocide of old. What is the current status of any individuals who remain in the UK and why is that? If they have not been deported, why has this taken so long?

Lord Sharpe of Epsom (Con): My Lords, I cannot comment on specific numbers of refugees from that particular incident. However, I can reassure the noble

[Lord Sharpe of Epsom]
Viscount about the safety of the Republic of Rwanda. Clause 4 of the Bill allows that

"Decisions based on particular individual circumstances"

can be specifically exempted from some other aspects of the Bill. I will not read them, as he can read them himself.

Baroness Hamwee (LD): My Lords, many of the problems that we have discussed over the months and years come from the backlog of applications to the Home Office. What does having two Ministers—one for legal migration and one for what the Government badge as illegal migration—do to address this? Also, the previous Home Secretary made it very clear that the Government's proposals "will not work", in her words. Is that because of her views about the European convention or does it come from some other inspiration about how to make the system work? If so, has she shared that with colleagues in the Home Office?

Lord Sharpe of Epsom (Con): She is not a colleague so, no, she has not shared it. I am not going to second-guess what she was trying to say this morning; that would be foolish. As regards having two Ministers for Immigration, this is a big subject so, clearly, it deserves two. I suppose I could give a flippant answer: at least they will be able to process these claims twice as fast.

Baroness McIntosh of Pickering (Con): My Lords, I absolutely support the Government's attempts to outlaw and stop the work of these criminal gangs, but we must proceed on a safe legal basis. My noble friend has accepted that the Government are proposing to set aside part of the ECHR. Can he confirm that we are still bound by the provisions of the international convention on refugees? Does he share my concern that, if reports are correct, the Rwandan Minister of Foreign Affairs and International Co-operation issued a statement yesterday saying the following:

"Without lawful behaviour by the UK, Rwanda would not be able to continue with the Migration and Economic Development Partnership"?

Can my noble friend give me a reassurance today that that will not be the case and we will proceed by legal means?

Lord Sharpe of Epsom (Con): As I said in answer to an earlier question, Clause 1(6) details international law. It includes the human rights convention; the refugee convention; the International Covenant on Civil and Political Rights of 1966; and the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment of 1984. I could go on. I suggest that we read Clause 1(6); it is very clear.

Lord Mann (Non-Afl): My Lords, will the refugees from Rwanda be put up in hotels?

Lord Sharpe of Epsom (Con): I really do not know how to answer that.

Lord Lilley (Con): My Lords, I welcome this legislation, not least because no alternative has been put forward by any of the critics in this House. Will the Government take advice from the French Government on how to announce these matters? On 31 October, when the French Interior Minister announced that France would ignore rulings of the European Court of Human Rights, there was no outrage from anyone in this House, nor from Foreign Office mandarins, the Bishops' Benches or the opposition parties. On 14 November, France put it into practice and deported an Uzbek refugee, despite a ruling from the European court that it should not do so and ignoring its own domestic legal procedures. There was no outcry; there was not even a BBC report of this event. In America, Biden, who originally criticised the behaviours of his predecessor, has refouled 1 million refugees across the border with Mexico in the past 18 months. If human rights are international and universal, why do they not apply in France and America?

Lord Sharpe of Epsom (Con): My noble friend makes a good point, as he did earlier this week when asking his Question. I must say, since answering it I have pored over the various publications one would normally expect to make remarks about such a potential outrage, and I have found that they are few, so my noble friend is quite right to make that observation. Obviously, it is not for a Minister to comment from the Dispatch Box on what other countries are doing, but I would observe that plenty of other countries in Europe and around the world are investigating similar schemes to the one we propose. We have those conversations on a regular basis, including with countries such as Germany and Denmark.

Lord Griffiths of Burry Port (Lab): My Lords, may I rephrase—or re-present—the question put by the right reverend Prelate in respect of clergymen coming to this country, which was rebuffed on the grounds that the Church of England is rather wealthy, given its endowments, and should pay its vicars more? As a Methodist—we have no land or money to back us up, and our salaries are much lower than those of vicars—may I ask whether Methodist ministers will be allowed to benefit from whatever can be benefited from in this legislation?

Lord Sharpe of Epsom (Con): I thank the noble Lord for that question. I would certainly make a personal observation: he has a much better case.

Lord Hodgson of Astley Abbotts (Con): My Lords, does my noble friend agree that the British people place great emphasis on the concept of fairness? A system that rewards people for undermining the existing system by trying to jump the queue cannot be appropriate and actually, it serves to bring the whole system into disrepute. Surely, we have to find a way—the British people expect us to do so—to make sure that those who work with the system and work fairly are treated properly.

Lord Sharpe of Epsom (Con): My noble friend makes an extremely good point and directs me, in many ways, back to what the Prime Minister said this morning:

"illegal immigration undermines not just our border controls … it undermines the very fairness that is so central to our national character. We play by the rules. We put in our fair share. We wait

our turn. Now if some people can just cut all that out … you've not just lost control of your borders … you've fatally undermined the very fairness upon which trust in our system is based."

I agree.

Lord Snape (Lab): My Lords, if this legislation is as effective as the Minister implies, can he tell the House why he thinks the Immigration Minister was wrong to resign?

Lord Sharpe of Epsom (Con): No, I cannot. I have not spoken to him.

Earl Attlee (Con): My Lords, it is no secret that I am not very happy with my own party at the moment. Is the Minister aware that I strongly support the policy he has outlined? The fact is that, for instance, every female asylum seeker from Afghanistan is genuine: they have a very good case. But, in answer to my noble friend Lord Cormack and the noble Lord, Lord Liddle, once the first 50 or so asylum seekers have been sent to Rwanda, is it not the case that there will be no further people risking their lives coming across the channel on small boats, because it will be pointless?

Lord Sharpe of Epsom (Con): I certainly hope so. This gives me an opportunity to remind the House that part of the reason we are discussing migration on such a regular basis is that this country has been generous, as we have discussed before. There are BNO passport holders, Ukrainian visas, and ARAP in Afghanistan, as my noble friend has alluded to. I think it is well worth restating that for the record.

Lord Cashman (Lab): My Lords, will the Minister give the House an assurance that the Government will not the disapply the rights of others and other minorities should judgments come from the European Court of Human Rights, or indeed the Supreme Court, that they do not agree with?

Lord Sharpe of Epsom (Con): My Lords, I think I have already answered that question in terms of decisions based on individual and particular circumstances. I will leave it at that for now.

Viscount Waverley (CB): My Lords, are the Government minded to consider the approach of the most reverend Primate the Archbishop of Canterbury, who spoke of a knee-jerk reaction without the long-term solutions that are absolutely required for migratory issues? Will the Government give some consideration to implementing such a solution, so that we can resolve this whole problem worldwide?

Lord Sharpe of Epsom (Con): As I said when the most reverent Primate asked me the question, global circumstances would clearly suggest that that is a very good approach. Clearly, also, those conversations are ongoing in high-level diplomatic circles. But the fact is, as I said earlier in answer to my noble friend Lord Lilley, that the world is also looking for solutions to this problem on a bilateral basis.

Lord Liddle (Lab): My Lords, I return to the Minister's reply to my question about numbers, because they are important in the question of whether this will be an effective deterrent. His answer was that the scheme is uncapped, but what is the present capacity of Rwanda to take asylum seekers from the UK? The Government must know that: they have given Rwanda £140 million and are in the process of giving it more, although they will not declare that number to Parliament. What is the capacity? Is the Court of Appeal right that it is 100? Is he saying that the Court of Appeal is wrong?

Lord Sharpe of Epsom (Con): The Government do know that number but unfortunately, I do not, because I forgot to ask the question this morning. I will have to write to the noble Lord; I apologise.

Lord Ranger of Northwood (Con): My Lords, my noble friend is being asked a lot about numbers. I know that many people here are concerned about this policy and think about the effect it will have on people when they want to come here, because we want to dissuade those who are being trafficked and hurt. Really, the numbers we should be considering are of those who drown on the route here. I do not want to see any more women, children or men drowning in the English Channel. If this policy helps to reduce those numbers, does my noble friend not agree that we should be pushing that and ensuring that those numbers go down?

Lord Sharpe of Epsom (Con): I could not agree more with my noble friend. I tried to make the point earlier that one of the principal reasons for doing this is to deter illegal boat crossings, which are dangerous not just to the asylum seekers themselves but to those who are sent to rescue them.

Latin America

Motion to Take Note

3.09 pm

Moved by ***Baroness Hooper***

That this House takes note of the United Kingdom's relationship with the countries of Latin America, and the political trends and economic developments in those countries.

Baroness Hooper (Con): My Lords, recent developments in the 20 countries of Latin America have drawn more media attention to the region than it normally enjoys in this country, so it is a happy circumstance that, having tried for a balloted debate for the last two years, I was finally able to secure this wide-ranging debate on a Conservative day. I am especially pleased that my noble friend Lord Ahmad will reply on behalf of the Government since, in spite of his wide portfolio of duties in the FCDO, which do not include Latin America, he has nevertheless been very recently in South America. I declare my interests—all non-pecuniary—as a past president and current vice-president of Canning House; as a past chairman and current vice-chairman of the All-Party Parliamentary Group on Latin America; and as trade envoy to Costa Rica, Panama and the Dominican Republic.

In this troubled world, and post Brexit, we need more friends. It has always seemed to me that the historic links between the United Kingdom and Latin America are not sufficiently recognised or

[Baroness Hooper]

emphasised in this country. The independence movements 200 years ago, when our then Foreign Secretary George Canning

"called the New World into existence, to redress the balance of the Old",—[*Official Report*, Commons, 12/12/1826; col. 397.]

may not always be remembered here, and our children may not be taught about it, but it is well remembered throughout Latin America. There is tremendous good will and respect for the United Kingdom as a result. I believe that to be the best foundation for a good future relationship. I hope today's debate will help to raise awareness and demonstrate new opportunities to improve on our current links and relationships, and do so in such a way as always to recognise the particular attributes of Latin America, such as its rich biodiversity; ensure that environmental concerns and climate change are taken into account, including Latin Americans' role in that respect; and ensure that human rights and, indeed, the rights of indigenous people are safeguarded.

Why is Latin America an important region of the world, particularly for us? It is not just because, with a combined population of over 600 million people, it represents a huge market with a young and dynamic population, or because we share democratic values, although that is important when we work together in multinational organisations, as well as bilaterally. It is very much because, to the gold and silver which attracted Europeans to the New World in the first place, there have been added rich deposits of oil and gas, of copper, lithium and cobalt—the very commodities needed to enable us to reach net zero and look forward to living in a cleaner world. Many other renewable initiatives are taking place throughout the region; green hydrogen, in particular, is being developed, especially in Chile.

On the Motion, and looking at our trade relationships, it is sad to consider that this large and important region represents only 2% of UK imports and 2.5% of our exports, but that gives us huge opportunities to do more in investment and infrastructure projects, especially water and sewage treatment, but also in green finance and financial services generally, and, indeed, in the education sector, particularly in tech. Those are of great importance in looking forwards. The Department for Business and Trade is working hard at it, our embassies throughout the region are doing a terrific job and I really believe that the future looks bright.

Brazil is clearly the biggest economy. It plays a leading role as a BRIC country and is about to assume the presidency of the G20. Mexico is the second-biggest economy. Interestingly, not only do we have a variety of exports to Mexico but we can see a lot of Mexican investment in the United Kingdom. Anybody who sees the wagons of CEMEX, the concrete company, going around our construction sites will realise what an important role that plays.

The CPTPP, which we have just joined—indeed, the first day in Committee on that Bill is taking place even now in the Moses Room—includes Mexico, Peru and Chile, which have been Pacific Rim members of it from the start. They supported our application. One of the next applicant countries is Costa Rica—a stable country that is already a member of the OECD and is one of the countries I focus on as a trade envoy. I hope the Minister will be able to reassure me that the UK will give its support to Costa Rica's application when it comes up.

Perhaps at this point it is appropriate to raise the issue of visas. I apologise to my noble friend because I did not give him advance warning of this. There is a great lack of consistency in the way visas are dealt with. It seems very odd that on the one hand we are trying to attract visits and trading opportunities, and on the other we are making them more and more difficult. Again, I revert to education, as this is something that applies to students, researchers and other such people—as well as leading politicians, in some cases. I hope that the British Government will try to iron out some of these problems, of which I am sure that they are well aware, as soon as possible.

As well as our trading relationship, political change has been very much in the air. The "pink wave", which last year saw President Lula da Silva returned to the presidency in Brazil, is now overshadowed by very recent election results. For example, in Ecuador we now have Daniel Noboa—at age 35 the youngest President in the Americas, younger even than President Trudeau of Canada—who has the difficult task of building a constructive relationship with the National Assembly, a fractured body without a stable governing coalition, and with only the remaining 16 months of his predecessor's term in office in which to achieve it. Argentina has recently elected Javier Milei, a self-proclaimed right-wing libertarian, reflecting an electorate desperate to have something done about 140% inflation and 40% poverty. Milei takes over this Sunday, and I am told that, so far, the population is hopeful and willing to accept the necessary hardships to come, and his appointments of his ministerial team have met with general approval.

In Peru we have seen six Presidents in five years—I think that just about beats us—but next year elections are due in El Salvador in February, in Mexico in June and in Venezuela in October. In the meantime, we have the distraction of the referendum called by President Maduro over the annexation of part of Guyana. That is a very vexed question that has existed for some time, but nevertheless the UK has a special interest here since Guyana is of course a member of the Commonwealth.

When we look at Latin America, it has to be recognised that there are problems, with violence, drug trafficking and gang warfare spreading to what were considered to be peaceful countries, such as Ecuador. Mineral exploitation of the commodities that I talked about earlier, which is so important for the net-zero figures and so on, should not be at the cost of human rights, especially those of indigenous people.

The last time we had a major debate on Latin America, as opposed to the several short debates we have had about specific countries on specific issues, was in 2010. That debate, led by the late Viscount Montgomery of Alamein, was the one in which the noble Lord, Lord Liddle, made his maiden speech, so I am delighted that he is joining us again today. I certainly hope it will not be as long again before we have the next general debate.

There are lots of facts, figures and statistics that could be quoted in this context. I have chosen not to do so, but I thank the House of Lords Library for its excellent briefing, which contains many of them. I point to the launch of the Canning House *LatAm Outlook*, published on Tuesday this week, which presents a comprehensive look ahead at the next five years and gives all the necessary facts and figures. I have been able only to touch on many of the important issues, but I know that others will both broaden the debate and add more detail.

No country can do it alone. We live in an interdependent world, because of trade and security, and a world in which there is much conflict, so we certainly need friends. I believe that in Latin American countries we will find good and enduring friendships and relationships. I beg to move.

3.23 pm

Lord Griffiths of Burry Port (Lab): My Lords, it is a pleasure to follow the noble Baroness, whom I dare defy the conventions of the House in addressing as my noble friend, for we have worked together for many years on matters of common interest. I should have been in Wales today, but the GWR train drivers are on strike so I find myself here; otherwise, clearly, I would have had to wait another 10 years before having another opportunity to express my views. I hope she will not mind—and I think I know her mind well enough to know that she will not—if I broaden the geographical area to include the Caribbean. I must declare that I have the role of co-chair of the All-Party Parliamentary Group on Haiti.

I particularly draw attention to a recent meeting in Riyadh in Saudi Arabia that took place between 15 Caricom countries and the Saudi Arabian Government, with representation from the very top levels of Government there. That was much-vaunted. There was a huge amount of money from soft loan and development funds for various projects on island republics scattered through the Caribbean. It seems so recently it was China whose pervasive presence in the region we might have wanted to comment about, but Saudi Arabia is making a pitch for it now. Interestingly, of course, it was a sweetener because it not only sought but won the support of the Caribbean nations for the bid by Saudi Arabia to host Expo 2030 and later the 2034 football World Cup. Mutual interest, perhaps, was served.

Also in the Caribbean, we can note that Belize, in the light of what has been happening in the Middle East, has suspended diplomatic relations with Israel. Guyana and Venezuela are caught up in a pretty bitter dispute about a piece of land—it is Nagorno-Karabakh or Kashmir all over again, really—that they might go to war over because there are considerable deposits of oil found there that they are now contesting the right to exploit. Indeed, a contingent from the United States Department of Defense is arriving in Guyana shortly. Since coming into the Chamber, on my iPhone—yes, I too look at it now and again—I noticed that the Guyanese high commissioner is coming here, hotfoot, to discuss with our Government how we might help them in resolving the dispute with Venezuela.

Of course, all that brings me, inevitably, as my noble friend will know, to the island of Hispaniola. It is an island shared by the Dominican Republic and Haiti. What is going on in the Dominican Republic? It is extraordinary: its Parliament has just approved loans of $1.2 billion for a number of projects. It is expanding the number of free-zone companies for example, which bring in a lot of money through the tourist industry. It is investing in infrastructure—a number of projects related to better water supplies are being financed from this loan. Then, of all the things I would never have thought of, in Santo Domingo, which I have visited more than once, it is opening up, as a new project, a second metro line under Santo Domingo to improve transport across the city.

While in Riyadh, President Abinader of the Dominican Republic met with—and I pause for dramatic effect at this point—former Prime Minister Tony Blair, in order to pursue a conversation with him to improve bilateral relationships between the Dominican Republic and the United Kingdom. There is nothing wrong with that. They also discussed the apportioning of water from a river in the north of Haiti and the Dominican Republic—it is on the border, in fact. Rather gruesomely it is the Massacre River, so-named because in 1937 untold numbers—tens of thousands—of Haitians were massacred there as they sought to cross it. So, the water from that river has become contentious, and our former Prime Minister has been drawn into discussions about how to apportion that. Of course, I want to suggest an equal voice and presence in those discussions be given to people from the Haitian side of the river, because it does flow down the middle of those two countries.

Former Prime Minister Blair also talked to the current ad interim Prime Minister, Monsieur Ariel Henry. He is head of government, head of state, head of everything in Haiti: the only person who represents anything in Haiti in these chaotic days. It is a gruesome time there, with gangs and kidnapping and drugs. There is a total breakdown of order and no constitutional arrangements of any kind whatever. I happen to be working with one or two people who are known internationally for having found a way to create a positive future out of chaotic elements. I am hoping that the presence of such people now might just turn things round in Haiti. I lived there for 10 years; I was ordained as a Methodist minister there and my two children were born there. In so many ways, I have taken into myself a desire to advocate the cause of Haiti for as long as I draw breath—which is of course exactly the time that I shall be a Member of this House.

It is so important to realise how fragile all the constitutional arrangements in Haiti have been since it had the temerity to declare its independence, with its slaves overthrowing the French army under the leadership of General Leclerc—the brother-in-law of Napoleon, no less. It was in Haiti, not at Waterloo, that Napoleon's might was challenged successfully for the first time. But for all that, since then there has been systematic rape, extortion and extraction of all the minerals and other resources of Haiti—raping it and giving it debts that it could never repay. If we talk about reparation—and in the light of Black Lives Matter, that and decolonisation

[Lord Griffiths of Burry Port]
are mentioned quite a lot—Haiti has the first claim. It ought to be first at the table. There is a quantifiable indebtedness or indemnity that was paid by Haiti for its freedom. The Haitian ex-slaves had to pay France for its independence; they had no money to do it with and took out huge loans on the international markets, which Haiti has spent the next 200 years repaying. It is an astonishing piece of theft and dubious politics.

I could go on. If I had 80 minutes instead of eight, I could break all of that down—but who will come to the rescue of unfashionable Haiti? He has gone now, but the noble Lord, Lord Swire, who was sitting over there, was the only government Minister I ever had anything to do with who took Haiti seriously. The United Nations and the Organisation of American States have both failed. There has been no success so far. Something must be done for a country that is 90 minutes' flying time from America, and all the chaos that reigns there needs to be addressed. I have no proposals or questions to ask the Minister because I am still searching in my head to know how to frame and focus them. However, he is a man of considerable wisdom and experience. He can frame his own questions, guess at my desires and, I hope, begin to give me some hope in the matter.

3.32 pm

Baroness Coussins (CB): My Lords, Latin America is often overlooked or underestimated in its relevance and importance to the UK. The recent White Paper on international development, for example, contains only a tiny handful of specific references to this vast continent, despite prioritising some strategic themes of central concern within Latin America, in which the UK has a critical mutual interest and an established global leadership that could be leveraged more proactively, such as on human rights and business responsibility.

I am going to confine my remarks today to an issue of urgent concern in Peru and Colombia, where the UK is in a unique position to take the right initiatives to prevent further harm and redress existing problems. This is the impact of mining on the rights of indigenous populations and the environment. I declare my interests as a past president of the Peru Support Group and my involvement in another human rights NGO, ABColombia, under whose auspices I visited Colombia to evaluate progress in implementing the peace accord of 2016. I am grateful to both organisations for their excellent briefings and valuable work.

Mentioning the peace accord brings me to the first point of why the UK has such responsibility and influence in this matter: we are of course the penholder in the Security Council for the Colombian peace process. Added to which, we were—and I hope, remain—a leading voice at the UN in support of the principles of business and human rights, known as the Ruggie principles.

The third strand of UK interest is that the main mining company currently responsible for controversial activity, Glencore plc, is listed on the London Stock Exchange and receives funding and investment from UK financial institutions. A group of Peruvian and Colombian environmental and human rights defenders were in the UK only last week. Many of us met them and heard about the existential threats they are up against to preserve their land, way of life, food, water and health in the face of mining developments by Glencore.

The Cerrejón mine in La Guajira, Colombia, is wholly owned by Glencore and is one of the largest open-pit coal mines in the world. Its expansion over four decades has led to environmental degradation and serious human rights impacts. Studies show air pollution in excess of WHO recommended limits and in breach of limits imposed by the Colombian courts, raising the risk of cancer, DNA damage and chromosomal instability for those living in the region. The mine also consumes and contaminates significant quantities of water. The Ranchería River has unsafe levels of harmful metals, including mercury and lead, as a result of liquid waste being dumped in it, resulting in water scarcity, food scarcity, illness and disease.

Guajira is the ancestral land of the Wayuu people and many of their communities have been displaced to make way for the mine. Afro-Colombian and campesino communities have also been displaced, with evictions sometimes being carried out with armed guards, tear gas and metal projectiles. In 2016, bulldozers were used to destroy an Afro-Colombian village.

In Peru, where the UK is the largest foreign direct investor, it is a similar story. A recent report examined Glencore's mining activities in the Espinar region, the ancestral territory of the Quechua and K'ana indigenous peoples, who are being exposed to levels of heavy metals, including mercury and arsenic, beyond what is permissible under international standards.

Water is contaminated and proposed further expansion is set to exacerbate fragmentation of communities and loss of territory, in breach of ILO Convention 169 and the UN Declaration on the Rights of Indigenous People, including by paying inadequate attention to consulting those affected in order to obtain free, prior and informed consent before entire communities are displaced.

Also common to both countries is the acute vulnerability of environmental and human rights defenders. In recent years the number killed in Colombia has been unprecedented and only last week in Peru an indigenous leader was gunned down after a meeting about defending land against illegal loggers and cocaine producers.

Colombia's constitutional court has ruled that Glencore should not pursue further expansion, saying that large-scale mining puts the environment and health at risk. Glencore's response has been to sue the Colombian Government, using the investor-to-state dispute settlement mechanism, the ISDS, which forms part of the Colombia-UK bilateral investment treaty, the BIT. The ISDS process is secretive and therefore undemocratic and places enforceable obligations only on states, meaning that investors, such as Glencore, can win cases even if they have violated domestic law or international standards. Awards can run into millions of dollars and have led to several countries, including Australia and Brazil, omitting ISDS mechanisms from their trade agreements. Indeed, between 2017 and 2021, only one-third of

trade agreements contained ISDS clauses and other countries such as Canada and the US are qualifying their use.

The ISDS is effectively a barrier to the proper implementation of the Colombian peace accord, delaying action on climate change and human rights, and legislation to protect health. The UK therefore, as UN penholder, has a special responsibility to act to mitigate this damage and I ask the Minister whether the Government will look seriously and urgently at terminating the UK-Colombia bilateral investment treaty, whose initial term expires in October 2024, but with automatic renewal for an indefinite period.

The Minister will know that if it is terminated unilaterally, a sunset clause of 15 years would protect existing investments and cause untold further damage to communities and the environment, not to mention the success of the peace accord, which should be being strengthened by President Petro's "Total Peace" policy, not undermined by a British-listed mining company operating in defiance of Colombian law. An end to the BIT by mutual consent would neutralise the sunset clause, so I urge the noble Lord to initiate negotiations with this objective. This would be a major practical step, demonstrating the UK's commitment to its responsibility as penholder. We have already helped the Colombian Government achieve an expansion of the UN mission of verification to include monitoring of the ELN peace process, and the Government deserve credit and congratulations for that. I hope the Minister will now build on that by acting as I have suggested on the BIT.

On Peru, I ask the noble Lord to raise with his opposite numbers in Peru the case for halting Glencore's proposed mining expansion until it has produced a genuine environmental impact assessment and an opportunity for communities to give informed consent.

Finally, I ask the Minister if he will now support new legislation to mandate due diligence in supply chains and to hold commercial organisations accountable for their impacts on human rights and the environment. This would be in line with our commitment to the Ruggie principles and demonstrate on the international stage that the UK can walk the walk as well as talk the talk. I hope, therefore, that the Minister will agree to seek government support for the Private Member's Bill introduced last week by my noble friend Lady Young of Hornsey, which would enact these much-needed provisions. I look forward to hearing the Minister's response to the issues and questions I have raised, and I thank the noble Baroness, Lady Hooper, for the opportunity to raise them.

3.41 pm

Lord Naseby (Con): My Lords, the House is truly indebted to my noble friend. There is nobody that I am aware of, in either House, who has the depth of knowledge that she has—and not just the knowledge but the knowledge put to good use. My noble friend the Minister knows that I have a very long association with South Asia going back about 70 years, but I am a relative newcomer to this region of the world. It started because the revered late Speaker in the other place, Betty Boothroyd, asked me in the summer of 1992 to lead a delegation on behalf of Parliament to go to Stanley and pay our respects to the losses we suffered, but the joy that the Falklands remained in our friendship and part of our Commonwealth.

I went, and that began to open my eyes, quite frankly. It is an incredible part of the world. A year later, my wife and I went on a vacation to Antarctica, visiting the research stations there and looking at the sheer beauty of that part of the world, but also the extent of the ice shelf and the then not really understood challenges associated with that. For myself, unfortunately I lost my seat in 1997, the marginal seat of Northampton, having been its first-ever Conservative Member. I said to my beloved, "We are both interested in wine; why don't you go and find somewhere in the world, in the new world, where wine is important in the country?" She came back and said, "Right: I have found a small travel agent who will take three couples, and we are all going to Chile". So, we went to Chile. Obviously, I went and saw the ambassador beforehand, and said we were going. Remarkably, when we went through passport control, the first words said to me in Chile were, "You are enormously welcome in my country". You do not often get that at passport control elsewhere in the world.

Out of that, I led another delegation a couple of years later and I discussed with the then Chilean Ambassador that I was already a member of the Ordre Des Coteaux De Champagne and the Commanderie de Bordeaux a Londres. I said, "How would you feel if I tried to start a Chilean wine group?" I did not know that he was a master of wine when I asked him that, and the answer was very positive. I started the Cofradía del vino Chileno and we celebrated last evening, at the Caledonian club, with 54 people, the majority of whom are Chileans who are over here. But there is a good core of British people there and we thoroughly enjoyed one of Chile's leading houses, Montes, and there were about half a dozen others.

When I first went to Chile, there were really no leading houses as such. One of the great jobs done by the Chileans, in our country, was to recognise that the original wines that came here were pretty bog standard—they were ordinary table wines. Today some of the finest wines we taste, particularly on a blind-tasting basis, come from Chile. That is how I lost my heart to Chile.

As it happens, 2023 is the 200th anniversary of the appointment of Great Britain's first consul-general to Chile, in1823, which is auspicious in itself. I am so pleased that our Foreign Secretary made such a challenging speech in Chile, trying to say to the world that the countries of South America need to be more greatly involved in what is happening in the world. It was an outstanding and timely speech, and it was a huge help. There is another, practical side, which will help a bit. There was a 9% increase in bilateral trade between the UK and Chile in 2022. We now have a UK-Chile modernisation roadmap and have also agreed a memorandum of understanding on the development of the financial sector. Both those should boost international bilateral trade.

Chile itself has shown initiative by joining the Comprehensive and Progressive Agreement for Trans-Pacific Partnership, otherwise known as CPTPP. Thanks

[Lord Naseby]
to my noble friend and his team on the Front Bench we were the first European country to join the organisation. That is real initiative, so well done. What will that do? It will reduce red tape for trade between Chile and the UK, simplify the import-export process, reduce tariffs on imported goods and could—and should—lead to cheaper prices for some consumer products we get here in Britain, such as fruit juices.

There are opportunities there, and I think they are very exciting. In addition, I understand we have pledged £2 million to support academic exchanges and capacity-building projects in the lithium industry, which is pretty important to the future of the electric vehicle industry. Also, I am very pleased that we are building a scholarship programme for outstanding students. On the educational front, in which I am involved, it could extend a little further into the younger age groups.

In October 2023, a few weeks ago, the UK and Chile signed a renewed partnership agreement on Antarctica. We must just reflect on where the Falklands are in relation to there.

I just make one plea. We have no ambassador from Chile here at the moment. I urge my noble friend the Minister to say to the Chileans that we want to work with them, and we believe in what they are trying to do: could they please send us another ambassador, because the ambassador provides the leadership? It is okay at the moment, but I would hope that early in the new year we will see a new ambassador. The last one was female; the one before was male. I do not mind who they are: I just want them to come over here and join this very exciting country and the development it does. How good it was to go to Richmond upon Thames, a few months ago, to see the monument to Bernardo O'Higgins, who gave them independence, and resided in Richmond upon Thames.

3.49 pm

Lord Brennan (Non-Afl): My Lords, I congratulate the noble Baroness, Lady Hooper, on introducing this debate, which is so important. I remind the House of my interests in Latin America, which are set out in the register, including advising companies and investors on how get into Latin America and once they are there to make a success of it, and vice versa, from there to here. My wife is patron of the Anglo Latin American Foundation, which supports poor and needy children on that continent.

Our country's relationship with the countries of Latin America has been of historic duration. A key figure was George Canning. As Foreign Secretary and Prime Minister in the 1820s, he chose to persuade our Government to recognise the new countries and states that were setting themselves up on the Latin American continent. He shared wisdom and foresight, hence his statue in Parliament Square, put up within a few years of his death, and hence the blue plaque on his house in Berkeley Square. It says simply but nobly "George Canning", his birth and death years below, and, in the middle, one word: "statesman". He recognised the creation of a group of nations that had a long-term future with which we should be associated.

Let us remember that it is not just the rich and famous companies or people who went to Latin America. Cornish tin miners mined in Mexico when tin stopped being mined in Cornwall. Welsh farmers set up farms in Patagonia, and the Welsh community there is still extant a couple of hundred years later. In London now, we count ourselves lucky to have top-class diplomats from these countries, working hard in their interests and ours, two of whom are in the Gallery today, from Peru and Costa Rica.

What about the future? Latin America is approaching 700 million people. They are educated people, with a high literacy rate in most countries. They know what they are doing. It is the largest net food exporter territory in the world. The beef exports are world famous. The next time you buy a tin of Fray Bentos, have a look. Fray Bentos was the port in Uruguay through which the beef in the tin came from there to here—hence Fray Bentos, started by the Vestey family here in England.

Argentina has a huge shale field for oil and gas. Brazil, Argentina and Mexico are three very important countries for oil and gas. As for renewable energy, solar intensity is very high in some areas of Latin America. The winds are long and strong in some areas. They are ready for renewable energy and for us to help them.

The noble Lord, Lord Griffiths, mentioned Guyana, which is a member of the British Commonwealth. It was colonised as a new country by us in the 18th and 19th centuries. Last Friday, 1 December, the International Court of Justice, in front of which there is a case about the territorial claim by Venezuela, made a statement requiring Venezuela not to take any action involving Guyana until the court had made a judgment. I trust that our Government will stand by that attitude of the ICJ. On Sunday in Venezuela, a "referendum vote"—in inverted commas—is supposed to have asked the people of the country to help invade the disputed territory, which has plenty of oil and gas. We must help as and when required—certainly, diplomatically.

There is plenty of mining of the strategic minerals of lithium and nickel in the southern Andes. We have listed on our stock exchange the largest precious metals company in Mexico, Fresnillo, and the largest mining company in Peru, Hochschild, because we value the benefit of their business internationally.

I turn to the climate change of the future. Of all the global places about which we have heard, the Amazon rainforest is probably the last place where the world is breathing safely. Let us help Brazil in particular to look after that important sector.

Let us be careful, because China is in Latin America—big time. The trade between China and Argentina is measured in billions of US dollars. China is helping to build a new railway system in Argentina, and—hear this—it wants to open a Chinese subsidiary port in a place called Ushuaia in the deep south of Argentina, opposite the Falklands and next to Antarctica. It is on the Atlantic coast, not the Chinese-facing Pacific. This is serious stuff.

Therefore, let us look for a balanced relationship. This is an important part of the world. Its countries

will look to us in the future as they have done in the past. As we start the third century of our long-term relationships, let us go to it.

3.58 pm

Lord Mountevans (CB): My Lords, I join other Members in congratulating the noble Baroness, Lady Hooper, on securing this important debate. She is a champion for closer relations with Latin America. As a distinguished former president of Canning House, she is, quite frankly, an inspiration. I declare my own unremunerated interest as the current honorary president of Canning House, which is now in its 80th year. It is a great pleasure to follow the noble Lord, Lord Brennan, another of its former presidents.

According to my latest figures, Latin America has a population of around 650 million, almost double that of the United States and 10 times that of the UK. Three of the largest cities in the world by population are located there, and the region is the second-most urbanised in the world, with 78% of people living in cities.

However, as we have heard, it is a very sad fact that Latin America, in general, does not receive the attention in Britain that it deserves. At a time of great international concern, it is deeply regrettable but perhaps understandable that Latin America is not higher on the Government's list of priorities.

As CEO of Canning House and former Latin America Minister in the coalition Government, Jeremy Browne, writes in the introduction to our latest review of the region, the *LatAm Outlook 2024*, which the noble Baroness, Lady Hooper, mentioned and was published just two days ago—I commend it highly to those with an interest in Latin America—there is a

"danger … that Britain overlooks Latin America, not consciously, but because there are always bigger distractions elsewhere".

This is most unfortunate, as Latin America is an important partner for Britain across a whole range of interests. There is real friendship from many of these countries dating back to their independence, where, in most instances, the UK played a significant part.

In the 19th century, Britain had a huge hand in developing the coffee trade, building railways and much more. The longest traded share on the London Stock Exchange is that of the Chilean copper miner Antofagasta. I have personally enjoyed great friendship in Chile, Brazil, Colombia, Peru, Argentina, Panama and Costa Rica in business, as sheriff and then Lord Mayor of London, and with a son now living and marrying in Costa Rica.

The great majority of the Latin American countries are democracies. A number of them, including Chile, Peru and Argentina, have in the recent past come through intense elections, opting for major change, but accomplished correctly, in each case according to their constitutions. The remarkable political maturity that much of Latin America has demonstrated recently is something we should commend and support. We are told that autocracies now outnumber democracies. I ask the Minister, who is held in such high regard in this Chamber, to confirm that the very status of established democracy is an important consideration for our Government when looking at Latin America.

There would appear to be no early likelihood of armed conflict—I leave aside questions of Guyana and, sadly, now Venezuela—between any Latin American nations. Leaving aside internal conflicts, to which I shall return, these are peace-loving countries. None of them has nuclear capabilities.

Latin America is an obvious ally for the UK on climate change. The region is often cited as a custodian of the Amazon. A number of countries in central America—Costa Rica, Panama and Ecuador—enjoy the remarkable distinction of being at or close to carbon neutrality. More broadly, it is a world-leading region in the utilisation of non-carbon energy.

With more than half of the world's known reserves of lithium and more than 40% of known copper reserves, the region is of great interest to China, the United States and Europe. It is also the world's biggest net exporter of food, as we have heard, with an estimated 18% of all global food exports by 2031. The region is a source of significant additional oil and gas production, notably from Brazil and Guyana—I strongly support the remarks made about the need to guarantee that country's security. We should not overlook the vast potential for shale gas in Argentina. At a time when much of the world is looking to avoid Russian oil and gas, and it makes sense not to be overdependent on the Middle East, this is a clear opportunity for Latin America.

Along with its significant hydroelectric power, major potential for solar and wind generation, and the promise of green hydrogen, Latin America has a great deal going for it—so what is holding it back? It is certainly not China, which has been investing heavily. It recognises the important resources and potential of the region. In particular, it has invested heavily in rare minerals. Apparently, this has not been achieved by any underhand methods; it has been buying companies on the open market. The reality is that China takes a very long-term view, often in contrast to what might be termed the West. Further, with its absolutist structure, with government, business and finance aligned, it has the ability to move rapidly and progress at pace. There is a clear contrast with the West. Latin American trade with China has grown, while there has been limited growth with the US and Europe. In 2000, Latin American trade with China stood at $12.5 billion. By 2021, it stood at $450 billion. The view has been expressed that Latin America wants to avoid replacing one hegemony, the United States, with another, China. This is a clear opportunity for Britain and Europe.

In my view, the biggest obstacles to western investment are transport infrastructure, security and corruption. Although living standards have been rising, and with a growing middle class, there remains considerable poverty throughout the region. Poverty and, in some cases, remoteness from positive government influence and intervention have shaped a growing trade in narcotics, particularly cocaine, which represents an horrific epidemic, particularly in North America and Europe. I personally have difficulty blaming all that on Latin American countries, where local poverty and remoteness stimulate the growing of illegal crops, feeding the demand for well-to-do individuals in rich countries. With this demand come whole structures of often sophisticated illegal transport, sometimes affecting countries just because

[Lord Mountevans]
they have very good infrastructure. It is easy to say, but we must find a way to eliminate the enrichment of callous lawbreakers wherever they are, but not least in Latin America, where they are holding countries back, spawning lawlessness and discouraging investment.

Given its enormous land mass, Latin America is important in terms of geopolitics, international trade and freedom of navigation. Britain has close defence ties with Chile, defence co-operation with Brazil and a history of seeking to assist the Government of Colombia in its challenges with the narcotics industry. On the other hand, the disputed sovereignty of the Falkland Islands has been a thorny matter in relations with Argentina and, to an extent, the wider region.

This is a vital time for UK business and trade. Our competitors, not only China but elsewhere in Asia, North America and Europe, are not sitting around. The government support and encouragement is vital. I was impressed by the contents of a paper presented by the business specialist for Latin America and the Caribbean at the Department for Business and Trade. Good work is going on to make trade easier. For example, there are now eight double taxation agreements, including with Brazil, and the shiny new agreement with the CPTPP, among other positive developments. She drew attention to areas of opportunity, including fintech, where there are many highly tech-savvy individuals in Latin America. In general, IT is growing much faster in these countries than national income.

This is perhaps a good moment to mention how fortunate we are to have an exceptionally engaged Minister for Latin America in David Rutley, and we are also fortunate to have some dedicated diplomats in post in the region. We are also blessed with an excellent cadre of Latin American diplomats here in London.

In the post-Brexit era, with an outward-looking Britain, it is particularly important that the UK builds relationships with increased exports. The good will and friendship of many Latin Americans towards the UK is well known. We have much on our side to encourage, but we must first grow British awareness of the value and attraction of the region.

4.07 pm

Lord Liddle (Lab): My Lords, I congratulate the noble Baroness, Lady Hooper, on obtaining this debate; the interval since the last one has been unacceptably long. In her career, both here and as a Member of the European Parliament, she has always been an assiduous worker for the progressive causes to which she has devoted her life.

It is a pleasure to take part in this debate. I am not a specialist in Latin American affairs, but my interest in the area was aroused when I had the good fortune to work in the Labour Governments from 1997 to 2010. As part of that, I met some remarkable people. I met Presidents Lagos and Bachelet of Chile and saw how that country was putting the terrible experience of the Pinochet dictatorship behind it, but in an extremely impressive spirit of generosity and wanting to forgive the past.

I also met President Lula da Silva, who is one of the most remarkable political figures of our age, given his emergence from a poverty-stricken background to become a trade union leader and then President of his great country. Of course he has his faults, but to my mind he grasped the essentials of being a progressive politician. He recognised that he had to work very strongly with the private sector to develop Brazil's enormous economic potential, but at the same time he was very committed to tackling poverty. Many children and poor families in Brazil benefited from his admirable social programme, which introduced a form of child benefit for every Brazilian family.

Of course, Britain used to be very important in the region, and many noble Lords have referred to George Canning to prove that. I am certainly aware of its importance, as I am from Cumberland and I know that Workington Iron & Steel produced many of the steel rails that built the railways of South America. I am afraid that the days of our imperialist economic success are not going to return. But I am also a child of the post-war era, and we would never have survived without South American ham and corned beef, as we were still on the ration until 1954.

Let me just make a few big points. First, thinking about South America enables us to think about some of the biggest challenges of our time. People have referred to climate change and the paradox of the need to preserve the Amazonian forest while, at the same time, the exploitation of the continent's minerals and raw materials is a massive opportunity for us all. We need to strike the right balance that results in environmental sustainability.

Secondly, the drugs trade, referred to by the noble Lord, Lord Mountevans, is relevant to Europe but obviously very relevant to South America. It is easy to be critical, but one has to remember the needs of some of the poor peasants who survive as a result of this trade. We have to find a different way to give them economic opportunity.

Thirdly, and most importantly, some speakers referred to the growth of democracy in Latin America. That is very encouraging, and we need to think about how to sustain it. At the same time, I am worried that, on the Ukraine conflict, which for me is an existential defence of democracy, so many people from countries in Latin America, Africa and elsewhere do not automatically and instinctively think of it as a battle for the fundamental rights of democracy. They do not understand it, and this is a great worry.

One of my suggestions to the Minister, even though this is not his area of responsibility, is to think seriously about Britain's role in this part of the world. As a starting point, I would like an audit of British soft power in Latin America and how we can make more of it—of the British Council, the World Service, the links between universities in Britain and Latin America, and the research opportunities that Latin America offers us. Our universities can also bring an even greater understanding of their culture, history and language. The Government could do that: they could bring everybody together and find a way to get more value from what we already do.

The other thing that we have to think about more seriously is our trade and development strategy for the region. Trade is an issue that I have always followed closely, ever since I worked in the Commission. Last week, I saw that the EU has abandoned its attempt to

secure a trade deal with Mercosur, at least for the moment. Now that we have an independent trade policy, what is Britain's trade strategy in Latin America? How do we relate that to our development strategy? It seems to me that we cannot go to countries and say, "We'll trade with you only if you do environmentally acceptable things", if we, as a comparatively rich country, are not prepared to offer aid and development in order to make sure that it is easier for those countries to do the right thing on such issues. Trade and development must be linked, and I am not convinced—this is not a party-political point—that that linkage has so far been established. I look forward to the Minister's reply.

4.15 pm

The Earl of Effingham (Con): My Lords, I thank my noble friend Lady Hooper for bringing forward this important debate. Although noble Lords will not find it on my entry in the register of interests, I am proud to say that my wife is Peruvian and I have been a regular visitor to the country for the past 27 years. I want to take this opportunity to highlight its economic developments, our relationship with Peru and the possibilities that we can seize upon, which will benefit both the UK and Peru.

When I first arrived at Jorge Chávez Airport in Lima on a warm, sunny day in December 1996, nothing could quite have prepared me for what was about to happen. I walked out of the relatively controlled arrivals area into a cacophony of hundreds of gentlemen shouting "Taxi!" at the top of their voices. The road from the airport to the residential area of Lima was lined with cars that would have been most unlikely to pass their MoT in the UK. It was also clear that, unfortunately, this was a country where poverty and economic hardship were borne by a number of the population.

Fast-forward 27 years and the Lima that I first encountered back then has been completely transformed. There is now a well-maintained three-lane highway from the airport, lined with shopping centres and restaurants. The old cars have, for the most part, been replaced by shiny new vehicles, and less of the population appears to be experiencing difficulty. Once-makeshift towns are now areas bustling with communities, shops, restaurants and roads. There are new residential developments all over the city, and future buildings appear like mushrooms at every visit. There is a burgeoning middle class, growing from around 15% in 2006 to 34% in 2019, made possible by access to capital in the form of mortgages and loans. Consumer spending has risen as more and more people are lifted out of poverty and the country's middle class expands. To be clear, poverty levels are still too high: there was a steady decline from 57% in 2004 down to 20% pre pandemic but that had risen back to 28% in 2022, and those in the middle class have dropped from 43% down to 20% as a result of the recent global economic turbulence. However, we should remain optimistic that this can trend back to pre-pandemic levels.

Peru's economic success has been driven by mining, agriculture, natural resources and tourism. The statistics tell the story. The country has the world's largest reserve of silver, at 98,000 metric tonnes, as well as significant reserves of gold, lead and zinc. Peru provides half of the world's supply of the superfood quinoa. Breathtaking experiences such as Machu Picchu, Cusco—the capital of the Inca empire—and untouched rainforest complete with pink dolphins, jaguars and river otters are all part of the scenery. The country boasts more than 4,000 species of butterfly and 2,100 species of fish, both respectively the largest species numbers of their kind in the world.

It is no surprise that, of all Spain's colonial conquests on that continent, it was in Lima that it decided to install its viceroy. Peru was the jewel in the crown as far as it was concerned. It is also worth flagging that Peru has three distinct regions—the coast, the jungle and the mountains—each with its own unique climate, gastronomy, culture and trade opportunity. Peru has 28 of the world's 32 climate zones, and it is this rich and deep diversity which, in my mind, makes Peru one of the key Latin American countries that we should continue to develop ever-stronger links with.

As recently as October of this year, we celebrated the 200th anniversary of our bilateral relationship. The UK is one of the leading investors in Peru. Our very own Hay Literary Festival, which promotes culture and social responsibility, takes place every year in Arequipa, the birthplace of Peru's most famous Nobel Prize-winning writer, Mario Vargas Llosa. The previous Foreign Minister was one of over 270 Peruvian Chevening scholars who have been welcomed in the UK over the years.

The reintroduction of direct London to Lima flights will commence this month; the removal of short-term visa requirements just over a year ago for Peruvians visiting the UK will open up further partnership opportunities on business, tourism and trade; and, following accession to the CPTPP, UK business visitors will also enjoy an extended length of stay in Peru.

From a trade perspective, UK exports were £373 million in 2023, and the UK is now the most important European market for Peru. Peruvian exports of liquefied natural gas to the UK hit over £1 billion between November 2021 and March 2022, versus just over £80 million over the three-year period prior to that.

There are many reasons we can be confident that our relationship will continue to grow and that bilateral trade and investment will increase, but there are a number of areas which merit further consideration.

Notwithstanding the CPTPP agreement, what are the Government doing additionally to help UK SMEs diversify their supply chains and look to Peru, and indeed Latin America, as a partner? The Peruvian economy is well known to the likes of Anglo American and Rio Tinto, but what about our smaller companies, which could undoubtedly benefit from engaging in trade with their Peruvian and Latin American counterparts, but for which the continent is simply not on the radar? For example, in the fertiliser sector, small and medium-sized Peruvian farms are importing high-tech machinery to improve quality and production capacity. British-made machinery could surely compete in that space.

Many nutritionists say that, if they had to save one country in the world after a disaster, it would be Peru, due to the abundance of its superfoods such as quinoa,

[The Earl of Effingham]
which is now a staple in many parts of the globe. When paired with exercise, these superfoods should promote physical and mental well-being. Given the ever-increasing importance of this post pandemic, I ask the Minister: what are the Government doing to increase trade in these types of superfoods from Latin America and encourage consumption as part of a nationwide health and well-being strategy?

In summary, there are many ways in which the UK and Peru can enjoy a mutually beneficial relationship across a variety of industries, trade and knowledge sharing. Accession to the CPTPP will be a great enhancement, but there are still many other opportunities for us to pursue.

4.24 pm

Viscount Waverley (CB): My Lords, there is nobody more qualified than the noble Baroness, Lady Hooper, to lead on this debate, with her good name being synonymous with Latin America and much respected by all there. I remember like yesterday her counselling me all those years ago. Thank goodness for that. I remember her words to the letter while I was preparing my first remarks in your Lordships' House on the very subject that brings us together today.

What has changed? Not a lot, in a word. While for us band of aficionados, Latin America remains front and centre, the cancer of corruption stifling growth continues, drugs and security issues prevail, and the steady northbound economic migration trek for the impoverished continues unabated, with the result that Latin America has hitherto not reached its potential. A sense of despair drives migrants northwards to the US border, and has even become an established route attracting Chinese, who make the perilous trek through the Darién Gap. We urgently need the 10-year evaluation, as the most reverend Primate the Archbishop of Canterbury recently called for, to understand and implement counter-migration measures.

The question of whether or not Argentina signs off on BRICS membership, as was agreed in Johannesburg, and the averting of hyperinflation, together with whether to support dollarisation, awaits. Brazil's President Lula may have miscalculated, for it was he who proposed that Argentina be admitted into an expanded BRICS to counter China, by supporting a regional ally at the table. Whatever the outcome, engaging and working together with China, with its initiatives and expanding presence in the Latin American-Caribbean region, is causing growing anxiety in the United States.

The continuing existence of the long-stagnant Mercosur is potentially under threat with a potential withdrawal of Argentina, following the Trump-like decision to withdraw from the CPTPP and, dare one say it, a trend that followed on from our EU withdrawal. The need for alternative sources of financing, possibly through the New Development Bank, with Argentina's reserves at near zero and the peso plummeting, will probably focus minds, but we await inauguration and consequential decisions from mid-December.

It will certainly be interesting to see how the across-the-board political spectrum, with Brazil's centre-left President together with Colombia's ultra-left-wing President interacting with Argentina's incoming far-right libertarian President, plays out.

Regrettably, I too turn our minds to Guyana, a fellow member of the Commonwealth, which is facing extreme pressure from a possible land grab by Venezuela, in defiance of a UN court decision. It is imperative that the international community stands firm against President Maduro saying that he will immediately proceed to grant operating licences for the exploration and exploitation of oil, gas and mines in the Essequibo region. Yesterday, Secretary of State Blinken with the Guyanese President reaffirmed the United States' unwavering support for Guyana's sovereignty.

The people of Venezuela voted to support this in a referendum, but they will ultimately suffer the consequences. They should be aware in no uncertain terms that a land grab will end in tears. Venezuela can assuredly say goodbye to regional legitimacy if it follows through on armed and unprovoked aggression. Some analysts suggest this is a possible co-ordinated geopolitical action to drive down oil prices and receive domestic support for a battered autocracy. Without in any way knowing for certain, but understanding the relationship between Russia and Venezuela, it would come as no surprise if the dark arts of the Kremlin were lurking somewhere in the background as an anti-Western distraction. This needs to be nipped in the bud as a matter of urgency; I call today for immediate sanctions to be applied on Maduro and the lead general engineering this. Does the Minister agree? If so, will he say so unequivocally in his summing up, including speaking on other measures the Government are proposing to implement?

The UK should be co-ordinating with Mercosur and the OAS and with other regional policy mechanisms to lower tensions. Co-ordinating with President Macron, as another example, would also be no bad thing given the regional play of Total, particularly in French Guiana. It is better and cheaper to hedge through diplomacy than commit resources on the ground. However, as a fallback, I believe Brazil could step in, not least because it has economic interests in Guyana or, if there be reluctance by President Lula, Chile's President Boric could be an option to support, alongside Uruguayan and Paraguayan elements.

However, none of what I have described should detract from the reality that the region at large presents tremendous opportunity and hope for the future. There is the boundless energy, beauty and charm of the place: from the lakes of southern Chile to the Pampas of Argentina to the grandeur of the Foz do Iguaço to the shores of northern Brazil to the spectacular Andean countries and Colombia's coffee growing region and on into Mexico, where all the richness and culture and past history that that country provides makes it a haven.

In trade terms, the UK is on the cusp of CPTPP membership and will be joining, as has already been said, Mexico, Peru and Chile as partners. I commend the Peruvian authorities for bringing their priorities to the attention of the UK recently, and I place on record how impressed I was by the innovative speech of President Peña of Paraguay, who in his recent COP address underlined how Paraguay is crucial in food and energy security, has enormous awareness about the environment and is taking steps to be considered as an example in this field.

The importance of Brazil on the world stage can never be passed over. During the remainder of President Lula's current tenure, Brazil will be at the forefront and greatly influencing world affairs with the rotating presidency of the UN Security Council and through the Mercosur alliance and the BRICS group. It has also just taken over the presidency of the G20 from India.

I too congratulate and welcome the newly arrived ambassador for Colombia, and I shall say a more detailed word for the record on Colombia, a country with which I have a close association. Since my time there, I am to understand that many Brits have made their home there. Colombia is a generous host to over 1 million Venezuelans looking for better work opportunities and living conditions. The technology and innovation environment is growing, with foreign investment providing funding and bringing talent by new visa types that allow digital nomads to reside and receive benefits from the Government. Fruit and vegetable exports are growing, with new European economic ties helping the economy, but coffee demand is volatile. On the downside, however, private construction has dropped by about 50%, with infrastructure projects by 25%, and the peso has suffered a big devaluation but is now managing to stabilise.

There is much that needs to be said on such a vast and important subject, but I save my concluding remark with a final message to our friends in Argentina: learn from history and hands off the Falklands.

4.32 pm

Lord Purvis of Tweed (LD): My Lords, it is always a pleasure to follow the noble Viscount. When I was in the Chamber, the noble Lord, Lord Collins, highlighted to me the slight mix-up in the speaking order on the list. There was a degree of disappointment, because I had a frisson of excitement that I was finally going to be speaking on behalf of His Majesty's loyal Opposition —I might have to wait a few months for that.

This has been a really good debate, because there has been a mix of the professional, with real depth of experience, and personal too, especially from the noble Earl, Lord Effingham—he may have just missed out the variety of potatoes, but other than that he offered the whole sweep of Peru, which left me thinking that, when we end this debate, it might be a perfect time for a pisco sour, so perhaps His Excellency might be able to provide some refreshments at the end. I hope that the excellent ambassador for Peru and his colleagues took heart from this debate and from the strength of feeling about ensuring that the UK's relationships get even stronger.

As the noble Viscount and others have said, there is no stronger advocate for that than the noble Baroness, Lady Hooper. I have had the privilege of accompanying the noble Baroness on a visit to the region and it was akin to a royal visit, where we minor members of the delegation were slightly shunted aside when the Foreign Minister wanted to kiss Gloria. That is testament not only to her passion for the region but also to the long-standing nature of that.

The noble Baroness's summary at the start of the debate was exactly right: this is a time for the UK to have more friends around the world. The challenges on climate and sustainability are shared concerns. The UK has a long-standing cross-party consensus on topical issues such as human rights, civil and political rights and support for indigenous communities, and the combination of all three highlights the value that the UK can provide in this relationship.

In that regard, I commend the noble Baroness, Lady Coussins, who rightly raised the sometimes complex issues of human rights. Before our visit to Peru, for example, she briefed me and others on the difficult subject of forced sterilisation and the complexities concerning the indigenous communities and mining, which has been raised as an element of one of our key economic partnerships. We also have a role to play there. As the noble Lord, Lord Brennan, indicated, often the mining concessions and their financing not only are located in the UK but go through the City of London, so we have not only economic value but, to some extent, a social and moral responsibility when it comes to the associated community impacts of that extraction industry. I have met indigenous representatives in Parliament who have been elected in Colombia, and in dialogue with them it has been fascinating for me to see the transition.

Another thread in the debate highlighted the economic relationship. Reference has been made to the House of Lords Library briefing, and, although we often put Covid out of our minds, one element in the Library briefing showed how heavy a toll Covid has taken on the populations in Peru and, indeed, elsewhere in Latin America. It has had an ongoing impact on the recovery of those economies, which then has a direct link to UK trading relationships.

I looked at the level of those trading relationships, which is relatively low and could of course be stronger. For the Andean relationship—that is, Colombia, Ecuador and Peru—the figure is just short of £6 billion; for the six countries in Central America, it is £2.5 billion; and for Chile and Mexico combined, it is nearly another £7 billion. In total, that is just over £16 billion. As has been indicated, that should be a floor, and we should be building on that.

On the deeper relationships relating to the challenges we face going forward, I met the Brazilian ambassador last week and we had a fascinating dialogue about the role that Brazil can play. It will host the next COP but one, and it has brought forward innovative solutions for this COP with which the UK can partner. We have seen that we can be partners with other countries in addressing many of the challenges of the time, especially those relating to climate and transition.

In that regard, I would be grateful if the Minister could clarify one point. I am currently uncertain when it comes to one of our investment arms, British International Investment. Is Latin America now covered by BII or not? It went from not being covered to then being covered under Liz Truss, but now I understand it is once again not covered as far as emerging and middle-ranking economies are concerned. I would be grateful if the Minister could clarify that point.

On the latest Argentinian elections, I think we are all fascinated to find out whether President Milei will be able to deliver on some of the rather ambitious promises that he made in his election campaign. I understand that, following the rhetoric of campaigning, some of the reality of his being in presidential office will be slightly different.

[Lord Purvis of Tweed]

We also have opportunities, when we see so much conflict in the world, to look on our partners in Latin America as partners in peacebuilding as well as in dialogue and facilitation, especially when it comes to transitional justice and security sector reform. I do not think we as a partner consider them enough.

I also believe strongly that we can do a lot more with our parliamentary dialogue and relationships. The noble Baroness, Lady Hooper, has been such a stalwart of the inter-parliamentary union, and we have the ParlAmericas network. I would love the UK to be playing a stronger role with the ParlAmericas network, and for there to be UK and ParlAmericas initiatives in many of the areas where parliamentarians can take things forward. There have been sensitivities and difficulties—for example, in Ecuador, where the Parliament was suspended for political purposes. As the noble Baroness rightly highlighted, we now see a centrist president there, and some stability.

Political instability was raised. To take just one country: five Prime Ministers in seven years, seven Foreign Secretaries in seven years—but enough of the United Kingdom. More importantly, we have had a change every year in the Minister responsible for Latin America. I am delighted that we have the noble Lord, Lord Ahmad, the resilient soul that he is, to speak for us. We have now discovered the only region of the world he is not responsible for—I think. To be a predictable and reliable partner at a ministerial level is really important. If only the others could be as dependable as the noble Lord, Lord Ahmad, in that regard.

I have some closing remarks. Mercosur has been mentioned, and I have been keeping a watching brief with regard to both President Macron and the EU position. I find myself in agreement with the noble Viscount, Lord Waverley, on that. I have come here from moving amendments in the CPTPP Committee to be in this debate this afternoon. The opportunities that presents are very important, but in order for that to be operationalised, our businesses need support to understand the markets and trade freely.

In my last minute, I will pick up on a point that the noble Lord, Lord Naseby, referenced. Two weeks ago, I was in the Falkland Islands. It was made clear to me that China is operating very assertively in that area. As of today, there are 500 Chinese vessels fishing on the very boundary of British territorial waters in the Falkland Islands, for the squid market. That is a market to the European Union, and in order for Falklands Islands' fishing vessels to access the European market—because of our Brexit agreement—they have to be Spanish flagged. The UK's relationship with South America and the direct interest we have touches on geopolitics—especially with China. That is why these relationships are so very important.

In my last seconds, I will close by quoting the noble Baroness, Lady Hooper, when she closed her speech in the last full debate we had, in 2010:

"This debate underlines the importance of Latin America and Latin American countries. We have got to get our act together … Let us start that today, not mañana".—[*Official Report*, 24/6/10; col. 1456.]

That was 13 years ago. We have to do this, because we cannot now afford not to listen to the noble Baroness. I hope the Minister will have some reassuring words when he responds.

4.43 pm

Lord Collins of Highbury (Lab): My Lords, I thank the noble Baroness for introducing this debate. It has been a great pleasure to participate in many debates on this subject with her, and she has been incredibly active in promoting better economic and cultural relationships with the region.

The Integrated Review 2021 of security, defence, development and foreign policy set out some clear aims for working with the region. It focused on developing strong partnerships based on shared democratic values, inclusive and resilient growth, free trade and mutual interest in tackling serious and organised crime and corruption—including, of course, the drugs trade. In May 2023, the then Foreign Secretary, James Cleverly, when in Chile, said that the UK recognised that multilateral institutions needed to become more representative. He said that he wanted to work with the countries of the region to effect that change. One example he gave was supporting Brazil's bid to sit as a permanent member of the UN Security Council. Brazil has been elected more than 10 times to the Security Council and is currently a member. I would like the noble Lord, Lord Ahmad, as the Minister for the United Nations, to tell us what sort of progress he thinks we can make on these changes. Certainly, on this side of the House we are committed to support such a change.

The then Foreign Secretary also said in Chile that we need to do more on trade. In this debate, we have heard particular reference made to Canning House, which produced a report suggesting that the previous government initiative in 2010 had delivered mixed results. I would be keen to hear from the Minister exactly how we can improve the situation. The CPTPP is an opportunity we would welcome; we hope that we can see some positive developments there, particularly with Chile, Mexico and Peru being active members, but others may wish to join.

With at least 23% of the world's tropical forests, 30% of global reserves of freshwater and 25% of the world's cultivable land, the region is also a vital partner in tackling climate change and restoring biodiversity. This year's integrated review refresh highlighted that climate change and biodiversity loss are important multipliers of other global threats and are guaranteed to continue to worsen over the next decade. Six of the 10 top risks in the 10 years ahead identified by the World Economic Forum relate to climate, the environment and nature. The consequences are both acute and chronic significant setbacks to progress in achieving the 2030 agenda on the sustainable development goals—the Minister will know that I have raised this point.

The OECD has also pointed to structural issues. It said that these included

"fragile social protection systems; low productivity; weak institutions; and an environmentally unsustainable development model".

The OECD also said:

> "A systemic green and just transition could help the region overcome its development 'traps' and strengthen its resilience while improving Latin Americans' well-being".

Exactly what steps are we in the United Kingdom taking to ensure that we support those objectives? As of 2017 it was estimated, as my noble friend mentioned, that the region contained 60% of global lithium reserves, over 30% of global copper and 32% of global nickel and silver. These climate-related shocks will pose important challenges over the short and medium term.

The welcome return to office, as my noble friend Lord Liddle said, of President Lula in October 2022 represents positive news for climate policy, in particular for protection of the Amazon. Brazil has a vital role to play in the world's response to the climate crisis, especially as it prepares to host COP 30. How will the Government work with counterparts in Brazil over the next year—or possibly until the general election—to ensure that COP 30 is a success?

In respect of that, there is also the news, mentioned by the noble Lord, Lord Purvis, of the election in Argentina of Milei, a self-described anarcho-capitalist. Milei promised a range of things, as the noble Lord, Lord Purvis, said, but it is unclear whether he will have the legislative support to pass such policies. In a response to a Commons Written Question, the FCDO stated that the Government are keen to develop and strengthen our collaboration with President-elect Milei's Administration. Can the Minister elaborate a bit more on that? In particular, how will the United Kingdom engage with Argentina on the vital issues of climate change leading up to Brazil hosting COP 30?

Of course, the integrated review also mentioned the continued defence of the UK's sovereignty of the Falkland Islands, South Georgia and the South Sandwich Islands and ensuring that the interests of the 3,500 people who live there are protected in line with the principle of self-determination. I hope the noble Lord can reiterate that position, especially in relation to the question from the noble Lord, Lord Purvis.

Reference has been made in the debate to the referendum in Venezuela on Sunday 3 December 2023 regarding Essequibo; it is clearly provocative and counterproductive, does nothing to support good neighbourly relations with Guyana and has understandably caused unrest and anxiety among the citizens there. The referendum threatens the border agreement that was settled over 120 years ago, with the International Court of Justice ruling on Friday prohibiting Venezuela from taking any action. It is essential that international law is upheld, so will the Minister tell us how we are supporting that position and how we are monitoring the situation in Guyana?

I briefly turn to Colombia, where President Petro was elected on a "total peace" promise last year. Since then, kidnappings have increased by more than 80% and extortion is up 27%. Violence in Colombia can be felt in Britain, as we saw last month by the kidnapping of the father of the Liverpool football player, Luis Díaz. I know the Minister is aware of this, so what are we doing to support President Petro in his peace bid? I know that over many years we have given financial and physical support or specialist support in this effort, but I hope the Minister can briefly update us on what we are doing.

Finally, I turn to Haiti and the intervention of my noble friend Lord Griffiths here. We have had discussions about the situation in Haiti and the desperate need for support. I think my noble friend raised, maybe unintentionally, a really important question about Haiti being laden with such debt. The White Paper on international development was launched very recently by the Minister, Andrew Mitchell, and I do not think anyone in this House will object to its contents. But on debt restructuring and the positive impact that can have on development, it did not really suggest any radical solutions. I hope the Minister can take my noble friend's comments away and focus on how Haiti can benefit from a much more radical proposition on debt relief.

I think, with those comments, I will leave the last 15 seconds for the noble Lord to add to his own contribution so that the debate is not terminated too early.

4.53 pm

The Minister of State, Foreign, Commonwealth and Development Office (Lord Ahmad of Wimbledon) (Con): My Lords, I am grateful for the 15 seconds and I have used them up already. I thank all noble Lords for their insightful contributions and join, rightly, in praising and recognising the long service of my noble friend Lady Hooper. I pay tribute to her for tabling this debate and for her work as the Prime Minister's trade envoy to Costa Rica, the Dominican Republic and Panama.

The noble Lord, Lord Purvis, mentioned that his place on the Order Paper had changed. There may be a general election on the horizon, but I fear that his place on the Order Paper may remain much the same—

Lord Collins of Highbury (Lab): Well, he might move.

Lord Ahmad of Wimbledon (Con): You never know. That really is going to be a question. Anyway, I say to the noble Lord, Lord Collins, that we have used up more than 15 seconds. I also acknowledge the presence of Their Excellencies the Ambassadors of both Costa Rica and Peru. I praise my noble friend Lady Hooper for her timing. Yes, I am not the Minister for South America, but I have just come back from there. I was in Colombia with Her Royal Highness the Duchess of Edinburgh, and I will come on to that in a moment.

It is appropriate, right at the start, to declare one's interests. As my noble friend Lord Effingham declared the interests of his wife, I have to declare that my sister-in-law, as the ambassador knows, is Peruvian, so I assure him that in the Ahmad household, Peru is a subject that we often talk about.

This, as my noble friend Lord Naseby recognised, is also an important anniversary for many countries in Latin America: it marks the 200th anniversary of our relationship with many countries in that region. Our modern-day partnerships are founded on our shared values. As the noble Lord, Lord Collins, rightly said about the integrated review, those four key pillars of values, climate, trade and security are very much the cornerstone, and we continue to be focused on those.

[Lord Ahmad of Wimbledon]

The noble Lord, Lord Liddle, talked about the importance of values, which are central. Many but not all countries in South America are democracies and we need to work with them to build enduring friendships. I say at the outset that my noble friend Lady Hooper's timing is impeccable, because we face challenges and a new President in the region. First, I turn to the situation in Guyana and Venezuela. As Minister for the UN, in every General Assembly high-level week I have often attended the appropriate meeting and restated the UK's position that the border was settled in 1899 through international arbitration. That remains the case, but I know that my noble friend the Foreign Secretary is very focused on this and I assure the noble Lords, Lord Griffiths, Lord Collins and Lord Brennan, my noble friend Lady Hooper and the noble Viscount, Lord Waverley, that we are very seized of the current situation. I know this would have been a focus of my noble friend's recent discussions in Washington.

The noble Viscount, Lord Waverley, talk about sanctions. He knows that I cannot go further on that, but I can share with him that the UK has sanctioned 41 Venezuelans under our Venezuelan autonomous global human rights and anti-corruption frameworks. We do not have sectoral sanctions on Venezuela and I am not going to speculate further, but of course we are watching the situation very carefully.

On the issue of President-elect Milei's success in Argentina, I am sure I speak for the whole House in congratulating him on his election as the next President. As fellow G20 members, we look forward to developing a strong relationship. It is interesting that one of the first actions he announced was to cut back on government departments: he is taking it down to eight, I was reading. We have a long history with Argentina, of course, and we are keen that our constructive collaboration continues. For the record, I assure the noble Viscount, Lord Waverley, and the noble Lords, Lord Collins and Lord Purvis, that the UK Government have no doubt about our sovereignty over the Falkland Islands—I know the noble Lord, Lord Purvis, was there recently—and indeed that extends to South Georgia and the South Sandwich Islands as well. The UK Government are absolutely committed to proactively defending Falkland Islanders' right to self-determination and that will remain the case. I am confident, irrespective of what Government are in place, that that will be a long-standing commitment to the people of the Falkland Islands from the United Kingdom.

The noble Baroness, Lady Coussins, raised several issues about mining concerns in Peru and Colombia. I listened very carefully to her. We are supporting the development of the first National Action Plan on Women, Peace and Security in Colombia, and that builds on ensuring that communities can grow and thrive. As her Royal Highness and I saw directly, this also extends to the point the noble Lord, Lord Liddle, raised about soft power. I attended a fashion show where the designers were those who had survived the conflict, including from indigenous communities. They were using recyclable material to present a new option and a new sectoral development in Colombia itself.

We were of course focused on our support since the 2016 peace agreement. I also had the opportunity to meet President Santos to get his insights. We remain, as the penholder, very focused on ensuring that the peace agreement is seen through to the end point with the new President. I am acutely aware that challenges remain within the country, and the issue of security in many parts of Colombia remains very much a focus of our attention, as well as of the new Government.

I was going to say a lot about Peru but my noble friend Lord Effingham summed it up holistically; he talked about many elements. We are proud of our relationship with Peru. In October this year, we celebrated its 200th anniversary. I also join in the tribute to my honourable friend in the Foreign Office, the Minister for South America, David Rutley, who attended various events. The UK fully supports the Peruvian Government, the constitutional process and the strengthening of Peruvian democracy, and we will continue to focus on this.

The noble Baroness, Lady Coussins, raised various issues regarding the bilateral trade treaty. If I may, I will write to her about this.

The noble Lord, Lord Liddle, talked about the importance of soft power. I agree with him totally. One of the biggest British Council establishments anywhere in the world is in Colombia. I met with the new head of the British Council in South America about some of key educational programmes for many of the indigenous communities.

As the noble Lord, Lord Mountevans, reminded us, most Latin American countries are functioning democracies that share our commitment to human rights and regularly vote with us in international fora. That is important: the UN matters when we come across key battlegrounds with other countries, as we have on issues of Ukraine, and support from our South American partners has been extremely important.

The noble Lord, Lord Purvis, when talking about trade, asked specifically about the BII. He is correct that it is not making funding available in Latin America, but I asked our trade team quite specifically about the use of UK Export Finance in this regard. It is underleveraged, and we need to look at new opportunities to make funding available. I agree with the noble Lord and others, including the noble Lord, Lord Mountevans, about the opportunities that exist, particularly around the transport system. As a former Transport Minister, I remember the opportunities that exist in rail and metro systems, for example, within South America.

The noble Lord, Lord Griffiths, said he would widen the debate to the Caribbean. I was Minister for the Caribbean once, to paraphrase one of my new colleagues on the Front Benches when he talked about the future. I do not know what the future holds, but I was totally immersed in the Caribbean region and the opportunities those countries present. Many of them are Commonwealth partners. The noble Lord rightly drew our attention to Haiti. He asked for innovative thinking; as the noble Lord, Lord Collins, suggested, I will take that back. We have some great, inspirational leaders in the Caribbean, no less than the Prime Minister of Barbados, Mia Mottley, who is a great champion of accessible finance for small island developing states. On Haiti specifically, the United Kingdom has a direct

interest: our territory, Turks and Caicos, is impacted by the challenges in Haiti and we work closely with the US on security concerns. I will come back to the noble Lord on other, more innovative suggestions when it comes to that patch, after discussions with colleagues.

I will turn briefly to trade. The total value of imports and exports to Latin America rocketed by more than 45% last year to more than £40 billion. Yet, as noble Lords have pointed out, the region still represents only 2% of UK imports and 2.5% of UK exports. We are, of course, not the only country that sees the potential; several noble Lords talked about China's strong and growing economic footprint and how that underpins its influence. It is now the region's largest trading partner. We have to realise that, which is why the issues of soft power are important, as well as increasing trade.

My noble friend Lord Naseby talked about Chile. He will pleased to know that, as well as the UK-central America association agreement, the Government have signed trade agreements with the Andean region and Chile, and we are making progress on negotiations with Mexico. In July, we finalised accession procedures for joining the CPTPP. This sets the stage for deeper trade investment tie-ins with Morocco, Peru and Chile as founding members. My noble friend Lady Hooper talked about the accession of other countries, including Costa Rica; I know that Ecuador and Uruguay are also interested.

The question of future accessions is of course under discussion, so it would be inappropriate to comment any further. All such CPTPP discussions are taken by consensus, but my noble friend makes a strong case.

Over the next decade, we will aim to eliminate further market access barriers and sign agreements with countries around the region, supporting growing trade and investment in sectors of strategic importance and special interest. The noble Lord, Lord Purvis, raised the issue of Mercosur. Brazil and other Mercosur countries are important trading partners to the UK, and the UK wants to pursue a high-quality FTA in the future in this respect. We are clear, though, that trade should not be at the expense of environmental or climate commitments. Again, the noble Baroness, Lady Coussins, reminded us of the importance of those issues.

My noble friend Lord Effingham raised various issues. I was very much seized of the issue of superfood production in Peru and the wider region. As I said, I have a family interest in this regard. My sister-in-law is a great advocate of such exports and certainly keeps telling me to increase my intake. I believe that Peru exported a record 286 million tonnes of fresh blueberries in 2022-23—the largest such export in the world. UK-based Cocogreen, a cleantech innovator in sustainable agritech products, is now exporting to the region, with deals with world-beating superfood producers in Mexico and Peru worth almost £60 million in the coming years. Again, this debate illustrates the importance of widening the debate, and of our own learnings and education.

The noble Lords, Lord Collins and Lord Brennan, raised the vital issue of lithium, as did my noble friends Lord Effingham and Lord Naseby. We recognise the critical importance of Latin America's minerals to the global transition to a green economy, and we are working with the so-called lithium triangle countries—Argentina, Chile and Bolivia—which together own almost 60% of the world's lithium resources. This is vital to the global transition to a green economy, as is lithium battery R&D through the Faraday Institution. However, I should add that in mining cobalt—experience lends itself to this—we should bear in mind the importance of ensuring that vulnerable communities are not impacted. That is an important value that we must sustain. The UK shares many similar values with countries in the region in this respect.

I have been told that I have only 60 seconds left, even though my time has already been curtailed, but I just want to make a few key points on the climate. The noble Viscount, Lord Waverley, raised important issues about the Inter-American Development Bank, which is the largest source of development finance to Latin America and the Caribbean, providing over $18 billion last year. The issue of climate is an important element of our work with South America, and I am delighted that Latin American countries will be big beneficiaries of the UK's £2 billion contribution, announced in September by my right honourable friend the Prime Minister, to the Green Climate Fund. It is our largest single climate funding commitment. We are lobbying the Inter-American Development Bank to provide greater volumes and quality of climate finance. We have partnerships under the Amazonia Forever initiative and we are keen supporters of the Eastern Tropical Pacific Marine Corridor.

The noble Lords, Lord Collins and Lord Purvis, among others, mentioned Brazil, which is a key partner. It led the UN considerably during its tenure of the Security Council. Personally, I was disappointed that its efforts, particularly on the issue of Gaza, did not bring more returns. However, our partnership is strong, and we value it.

The issue of security also came up. We are working very closely on the 2016 peace agreement in Colombia. I acknowledge what the noble Lord, Lord Collins, raised about the narcotics issues and challenges in South America. Unfortunately, South America is the most violent region in the world outside of conflict situations, with 8.4% of the world's population but around 30% of global homicides. I will end my comments by saying that we are continuing our focus on this issue with colleagues across the National Crime Agency and the Border Force; it will be a key element of our focus on strengthening our relationships across all four key pillars. We have delivered over £10 million from our global stability and security fund to Latin American countries—for example, to counter illicit finance.

Other questions have been raised. My noble friend raised issues about UK visas; I will write to her specifically on that.

Today's debate has illustrated the importance of South America to this House and our country as a whole. The UK is leaning on our lengthy and strong partnerships with Latin American countries to boost economic growth, promote close security and climate co-operation. In that regard, I am sure that noble Lords will agree with me that my noble friend has played an important part.

Motion agreed.

House adjourned at 5.10 pm.

Grand Committee

Thursday 7 December 2023

Trade (Comprehensive and Progressive Agreement for Trans-Pacific Partnership) Bill [HL]

Committee (1st Day)

1 pm

Clause 1 agreed.

Clause 2: Treatment of conformity assessment bodies etc

Amendment A1

Moved by ***Lord Purvis of Tweed***

A1: Clause 2, page 1, line 16, at end insert—

"(1A) The Secretary of State must, within 12 months of the passing of this Act, by regulations made by statutory instrument require conformity assessment bodies to publish reports on the impact of the provisions on the treatment of conformity assessment bodies in Article 8.6 of the CPTPP on the accreditation of goods from CPTPP parties."

Member's explanatory statement

This amendment would require that UK conformity assessment bodies conduct and publish a report on the impact of the provisions on the treatment of conformity assessment bodies in this Act on the accreditation of goods from CPTPP parties.

Lord Purvis of Tweed (LD): My Lords, it is always a reassuring sight on trade Bills in Committee to have a reunion of many of our colleagues who have participated in debates on previous trade Bills. I apologise to the Minister and others that I missed Second Reading; I was out of the country at the time. However, on that visit I was engaged in many discussions about trade, especially access to the EU market. If the Minister and his officials have been able to see the question that I asked the Foreign Secretary on Tuesday, they will be aware of the issues I raised with regard to that visit. I also apologise to the Committee that I will have to leave prematurely to speak in the debate in the Chamber on the relationship between the UK and Latin America. Trade is a considerable part of that relationship, which I will refer to in the Chamber.

At Second Reading there was much debate about the overall view that there is benefit to the United Kingdom's trade with regard to CPTPP accession. The extent of that, and how we will be able to then utilise some of the benefits that the Minister has said will accrue to UK business, is probably part of this detailed consideration now, going forward. Amendment A1, as well as the other amendments in my name and that of my noble friend Lord Foster, and some of the others, are probing amendments, to iron out some of the technical aspects of the implementation of our accession and to explore and to hear from the Minister how we would be able to see our businesses take advantage of the opportunities that the Government have said are now open to them.

The first element with regard to standards, assessment of standards and certification, and whether it comes to conformity assessment, is one of these areas that is almost technical in nature but fundamental with regard to our trading relationship. As the Government have said in their own papers, about £10 billion-worth of UK exports to CPTPP economies form some degree of conformity assessment and enter into that market. The fact that there will then be no discrimination for those conformity assessment bodies that would certify goods entering into their markets, as well as those markets' exports to the UK—there will be equivalent treatment with regard to those—is a positive.

I want to explore just two areas where some element of concern has been raised and ask for further clarification. That primarily regards countries that will be exporting to the UK, which will then have to have their goods assessed for a certificate. We already know in context that the vast majority of that £10 billion—if not all of it—is traded under CE marks already. Only with Brunei and Malaysia will there be some form of difference. We know that, if there is expansion of exports to CPTPP countries, the likelihood is that UK exporters will continue to use CE marking. In fact, as one business said to me, "It is all well and good that the UKCA as well as the conformity assessment will be operating, but we export both to CPTPP countries and we want to have access to the EU market—so we will continue to use the CE markings anyway". It is likely, as the Minister will know, that countries that operate in exporting to the UK will also take advantage of the agreement that we have made with the European Union to continue to use CE markings anyway.

The issue then will be how we interact with imports to the UK from countries that will not be self-certified and will not use CE markings. My understanding is that, broadly, that will involve medical equipment and machinery, which are important parts of UK trade. As we do not have mutual recognition agreements, a process will have to be carried out so that our conformity assessment bodies can be satisfied that the standards of the equivalent conformity assessment bodies meet our standards for certifying that goods may enter the UK market, especially if the goods constitute medical equipment bought by the NHS. This probing amendment simply asks for there to be a report of the relationship between the UK conformity assessment bodies and those in the CPTPP countries, so that we are operating on the same level of standards.

I found the information from the Welsh Government quite interesting. They raised a slight concern: if there are further trade agreements where we offer equivalence of other certifying bodies but outside a mutual recognition agreement, how will we know that those other conformity assessment bodies will operate to the same standards as ours? I hope the Minister can allay some of that concern.

Fundamentally, we on these Benches wish to see exports grow, and imports of a very high standard. One of the ironies of the CPTPP, as discussed in our previous debates, is that the modest level of growth that is forecast is because we already have well-developed trading relationships with the majority of the members. The combination of the fact that their economies have grown because of their trading relationship with China and that they operate under CE marks to export into the UK means that there is perhaps a limited area of growth. The probing amendment seeks to ensure that, if there are areas of growth, they are equal to the standard that we would want to see. I beg to move.

Lord Lansley (Con): My Lords, I will briefly join this debate because I am interested in the question of the mutual recognition of conformity assessment. Earlier this year, the Department for Business and Trade said that it would accept CE markings on a range of products for the foreseeable future—or something like that. That led to a certain amount of confusion, with the medical devices industry wondering whether it extended to medical devices. Of course, it did not extend to that industry; the Department of Health and Social Care has that responsibility. If my memory serves me right, the CE marking is certain to be recognised until 2027.

If my noble friend the Minister were to ask me for something we should aim to achieve in the trade and co-operation agreement review, it would certainly be to extend mutual recognition agreements between us and the European Union so that it recognises the UK conformity assessment and we continue to recognise the CE marking. That would afford enormous benefit to the industry.

This is not a mutual recognition agreement; this is giving the opportunity to conformity assessment bodies in CPTPP countries to apply to UK authorities so that, in effect, they provide themselves with UK conformity assessment on their products for trade, presumably within CPTPP countries and with the United Kingdom. Of course, if you are producing products for which you want a UK conformity assessment, being able to do your work according to the UK standards in your own country may well be a useful advantage. That is why it is in Article 8.6 of the CPTPP agreement.

Therefore, I am not sure that we need to worry about the question of "to what standards". The answer is in the design of this provision. It is to the standard required for a UK conformity assessment. The bodies in any other country that are accredited for this purpose have to work to the same standards as if they were doing so in the UK, so it is pretty straightforward. However, happily, it affords the opportunity to say that there is a step beyond this, which is mutual recognition. For example, among the CPTPP countries one might anticipate, for example in our relationship with Japan at some point, a move on to mutual recognition of conformity assessment, since in many respects the Government naturally are thinking, "That is the territory that we need to go on". As we develop trade relations and as we develop free trade agreements, eliminating technical barriers to trade should be one of our principal objectives—and this is one important aspect of that.

Lord McNicol of West Kilbride (Lab): My Lords, the noble Lord, Lord Purvis of Tweed, explained that this is a probing amendment, so I do not have a great deal to add to what he and the noble Lord, Lord Lansley, have said.

I pick up on one point: how do we ensure the conformity of that oversight when the products are coming into the UK? In the sixth group, which I do not think we will get to today, we will look at bringing in a good number of impact assessments and reports. The strongest part of the amendment tabled by the noble Lord, Lord Purvis, is the call for the publishing of a report on the impact of provisions on the treatment of conformity assessment bodies. That will give your Lordships' House and Parliament the opportunity and oversight to ensure that there is no undercutting of quality and services. However, I am happy to support this probing amendment and look forward to more clarity from the Minister.

Viscount Trenchard (Con): My Lords, like the noble Lord, Lord Purvis of Tweed, I was unable to participate at Second Reading. I was asked by the Lord Speaker to be part of the reception party for the President of South Korea, which was a great honour.

I am very interested in this Bill. I have been involved with Japanese civil servants and Japanese companies in discussions leading up to the UK's application for accession. I am very much aware of how important it was to the Government of Japan that the UK should accede to this partnership and as early as possible. Many Japanese associates have told me that they welcome that the UK will be able to exercise a de facto joint leadership of this group with Japan in the initial period, which will help ensure that the CPTPP functions efficiently and in the interests of all its members. I agree with the noble Lord, Lord Purvis of Tweed, that we do not want the CPTPP to enable substandard goods to come in. Obviously, it will be very good, as my noble friend Lord Lansley said, if we can move towards mutual recognition of conformity assessment bodies, especially with countries such as Japan and with other CPTPP members.

However, I am not sure that this amendment is necessary. If the conformity assessment bodies are doing their job, they will have to apply for the granting of equivalents of the standards to which the goods to be imported conform in their own country. Therefore, this amendment is possibly otiose because conformity assessment bodies will have to do this anyway.

1.15 pm

Baroness McIntosh of Pickering (Con): My Lords, I want to intervene at a late stage on this amendment. I, too, was unable to participate at Second Reading because I could not be there for the whole debate, which I understand the rules, quite rightly, insist on. I apologise for not being able to participate then.

The amendment moved by the noble Lord, Lord Purvis, seems to have a certain similarity to a later amendment in my name, Amendment 27. I have already spoken to my noble friend the Minister informally—I hesitate to say "casually"—and alerted him to the background to that amendment, to which I shall speak when the time comes. Can my noble friend help me by telling me what the relevant conformity standards body is for food and agricultural imports? He will be familiar, I am sure, with the report from the Food Standards Agency in England and the Food Standards Scotland, to which I shall refer in more detail when I speak briefly to my amendment.

I want to congratulate the Government on something that I have been asking for for some 10 years. I understand that they have appointed a larger number of agricultural attachés. The original one was appointed in Beijing by my right honourable friend Liz Truss when she was the Secretary of State for agriculture. If attachés can be placed in countries such as those referred to my noble

friend Lord Trenchard, including Japan and others, under this agreement, it will be an enormous boost. I applaud that. If my noble friend the Minister cannot answer today, could he provide the Committee with details on what part of the cost the farming and food sector would have to pay and which part the Government may pick up, because it would be an enormous investment?

As I said, I would be interested to know also which conformity standards body would be relevant to food and agricultural products, but I shall keep my main thoughts for when I speak to my own amendment in more detail.

The Minister of State, Department for Business and Trade (Lord Johnson of Lainston) (Con): I greet noble Lords who have been kind enough to come back for another wonderful discussion on the merits and benefits of free trade that will be visited upon our nation thanks to the vision of this Government in seeking to apply to and being successfully admitted, we hope, to the CPTPP. I am grateful to noble Lords for continuing their discussions, particularly those who have tabled amendments, and for the interlocution that we have had up until now, which has allowed us to have a good debate. I hope that they are well aware that I am available to them continuously to make sure that we draft the right legislation and profit from these free trade agreements.

I shall take the amendments one at a time if I may, though in this instance I think they are quite well grouped. The noble Lord, Lord Lansley, well covered the points raised by the noble Lord, Lord Purvis. There is no derogation of standards. This is not about standards; it is quite a helpful and straightforward process of authorising conformity assessment bodies to perform a function which, in many instances, they may already be doing—there may be mutual recognition in some areas and there may be other standards being undertaken or tested for. It simply allows the Secretary of State to authorise CABs to approve the activities of a CAB in a CPTPP country. Very importantly—we forget this, because often we look only one way in these agreements—CABs in CPTPP countries can authorise activities in the United Kingdom so that we can export more efficiently. It is of enormous assistance to industry, without question.

I have just been told the answer to my noble friend Lady McIntosh's question: UKAS is the conformity assessment body for agricultural standards. That answer came through just at the right time, but, as always, I am happy to write to noble Lords if I do not have the specific information. On CABs, the statutory instruments or secondary legislation that will come from this will cover a whole range of specialist and manufactured goods.

I feel I have been brief, but I believe everything has been covered in the discussion, unless I have missed anything. This is not about regulations, changing standards or anything like that; it is about a straightforward process where conformity assessment bodies can be authorised to follow whatever standards the domestic CABs wish them to follow in any CPTPP country. This strikes me as eminently sensible, and we very much hope that the noble Lord, Lord Purvis, would be comfortable with withdrawing his amendment.

Lord Purvis of Tweed (LD): I am grateful to Members who took part in this short debate. I like the Minister, and his enthusiasm for the 0.08% bounty to our economy from this Government's vision is infectious. But we want businesses to take the opportunities from this.

I have a couple of points that the Minister might want to write to us about. If he will forgive me, the question I neglected to ask in moving the amendment is a concern that still plays slightly on my mind. If the United Kingdom Accreditation Service is now approving those within CPTPP countries, will those accreditation bodies be sufficiently aware of the Windsor agreement and the internal market of the UK? As the Minister knows, there is not just the UK certification badge on goods; if it is to do with the Northern Ireland market, there is also the UKNI certification process. This is complicated—we have debated it long and hard—and it will be a task for our accreditation service to judge whether the bodies within CPTPP countries are sufficiently qualified to understand our market and entering goods into all parts of the UK market, not just GB.

As the noble Lord, Lord Lansley, rightly said, there is currently a workaround for this because of the CE markings. From my point of view, it would be eminently sensible if we just kept that going on in perpetuity. However, the noble Viscount, Lord Trenchard, and the noble Lord, Lord Frost, may have issues with that, because it would mean that we would have to maintain EU standards in perpetuity too—so there would perhaps be consequences to that. In the absence of mutual recognition agreements, we will probably have to keep an eye on this. I am aware that there are some MRAs within and between CPTPP countries, and whether we wish to take the next step forward with those countries is an interesting issue. I am certainly very open-minded about that, because it makes eminent sense, as the noble Lord, Lord Lansley, indicated.

Fundamentally, if we are to approve other bodies, it would be helpful to know, through a report, which bodies have been approved, which have not and why. If they are not able to certify goods properly within the categories that are not self-certifiable under the WTO, there will still be that lingering doubt that goods will be entering into the UK market without the proper process. If there is a reason why our accreditation bodies have not approved them, there is a reason why those goods should not necessarily enter into the UK market.

I hear what the Minister said. Can he give an indication about whether he will write to me on Northern Ireland? He is nodding from a sedentary position, but is he willing to intervene?

Lord Johnson of Lainston (Con): I will do that and, on the other point, clarify where I think there may be a misunderstanding about the conformity assessment bodies and our current imports. Do not forget that we already import a great deal from CPTPP countries without this arrangement in place; this just facilitates the effectiveness of the CABs internationally and vice versa. I hope we can clarify that—I can write to Members to do so.

Lord Purvis of Tweed (LD): I am grateful for that—as we know, there are currently imports under both the WTO approach and the CE markings, so, if this is

[Lord Purvis of Tweed]
moving away from that, a little understanding is needed. On Northern Ireland in particular, I am grateful that the Minister said he would write. At the moment, I beg leave to withdraw.

Amendment A1 withdrawn.

Clause 2 agreed.

Clause 3: Procurement

Amendment 1

Moved by ***Lord Lansley***

1: Clause 3, page 2, line 7 leave out "wholly or mainly"

Lord Lansley (Con): We come now to Amendment 1, which, strangely enough, is not the first amendment, but there we are. Amendment 1 and Amendments 2, 3, 4, 5, 6 and 7 all go to the same point; it is just that Amendments 2 to 7 are concerned with the schedules that flow from Clause 3.

We have now moved to the question of the Procurement Act. The noble Lord, Lord Purvis of Tweed, is correct that the trade hacks have got together for this one, but there were procurement hacks as well, of which I was one. Some of us have returned; not many, but one or two of us—and I see that the noble Lord, Lord Alton, a procurement hack, is in his place. It is quite amusing really because it is only a matter of a few months back that we were debating the Procurement Bill. Among other things, it created a mechanism by which the Government could designate, under statutory instruments, that additional countries with which we had entered into an international agreement should be added to Schedule 9 to the Procurement Act as treaty state suppliers, and by extension therefore get the benefit of the treaty state supplier provisions under that Act.

However, the Procurement Act, notwithstanding that it passed through Parliament, has not yet been commenced. We are reliably informed that that will not happen until October 2024, whereas under the CPTPP we are looking to achieve ratification before 16 July 2024—and some time earlier than that, I hope. There is a gap between the commencement of the provisions under the CPTPP and our treaty obligations and the point at which the Procurement Act comes into force and those procurement-related obligations are in our domestic legislation.

This legislation fills that gap by doing two things: using the opportunity to amend the Procurement Act when it comes into force by adding CPTPP as an international agreement in Schedule 9, and, further—which is why the other six amendments are linked—changing the public contract regulations in various respects between now and the point at which they are all replaced by the Procurement Act being brought into force.

Just to make life even more entertaining, the Procurement Act repealed the Trade (Australia and New Zealand) Act, which we spent quite a bit time on. I am hoping that the power to bring Australia and New Zealand in was achieved by that Act, and it will be overtaken by the Procurement Act.

We come to procurement. Clause 3(3) adds CPTPP to the list of treaty state suppliers in the Procurement Act. It may be that we have a debate about whether Parliament should approve these things in future, but the fact is that, in future, when we have free trade agreements, we will see regulations brought forward under the Procurement Act to add treaty state suppliers, so this is perhaps the last time that we will do this through primary legislation rather than secondary legislation.

Schedule 2 to the Procurement Act 2023 sets out which are exempted contracts under the Act. Paragraph 24 of Schedule 2 specifies that, among those exemptions, is,

"A contract awarded under a procedure … adopted by an international organisation of which the United Kingdom is a member, and … that is inconsistent in any material respect with the procedure for the award of the contract in accordance with this Act".

That latter sentence is pretty much the same in all these provisions, but it is helpful for noble Lords to remember the first part, as that is where this legislation will sit.

1.30 pm

However, that is not what the relevant chapter of the CPTPP says. Article 15.2, paragraph 3(e)(ii), specifies as an exemption from funded procurement that which is

"funded by an international organisation or foreign or international grants, loans or other assistance to which procurement procedures or conditions of the international organisation or donor apply".

What has clearly been picked up here is the intention that we should incorporate this into our legislation, which is what we see going on in Clause 3(2) of the Bill: a contract that is

"wholly or mainly funded by an international organisation"—

the key point is that it is an international organisation providing funds—

"of which the United Kingdom is a member",

and which is awarded under a procedure of that organisation. It then goes on to mention being

"inconsistent in any material respect".

The CPTPP says

"funded by an international organisation"

and under the procurement procedures of that organisation—we need to hold on to those two points.

What we have here in the Bill is that it is

"funded by an international organisation"

and "awarded under a procedure" adopted by that organisation. So we have the same two points, but the Government have inserted "wholly or mainly" before "funded". My starting point was: why the difference? Why have we inserted "wholly or mainly" for the purposes of our legislation, when our legislation's purpose is to incorporate the provisions of the CPTPP? The CPTPP article does not say "wholly or mainly funded", "co-financed" or "funded for the most part"; none of that language is in the CPTPP text. I thought I had better find out a bit more about why that might be the case.

The CPTPP provision relies, to an extent, on the exclusions under Article II:3(e)(iii) of the Agreement on Government Procurement, which specifies procurement

"under the particular procedure or condition of an international organization, or funded by international grants, loans or other assistance where the applicable procedure or condition would be inconsistent with this Agreement".

The Agreement on Government Procurement therefore has a similar provision—it is not precisely the same—that is about those two things: "funded by" and "under the … procedure … of". Again, it does not say "wholly or mainly funded". What is the reason for the difference?

I am indebted in my research to a 2015 paper in the *Trade, Law and Development* journal by Annamaria La Chimia, of the University of Nottingham. She examined exactly this question. Why is there, under the Agreement on Government Procurement, this exemption from the procurement rules for these organisations? The answer, essentially, is that it is about development aid—the noble Lord, Lord Purvis of Tweed, has forgotten more about this than I know.

The World Bank is a good example. Where the World Bank is funding, it has to decide under what procurement rules its grant or loan is being used for a given procurement. Ideally, developing countries become consistent with, or join, the Agreement on Government Procurement, but many have not, so in practice their procurement activity is conducted under the procedures of the World Bank, which specifies them. It may be that the World Bank provides the money, or most of it, but quite often a range of different organisations provide the resources for such a procurement. That is how development aid often works; it may indeed be leveraging resources within the developing country itself.

These are complex matters. Sometimes the development aid is tied aid, which adds another difficulty because very often that precludes the possibility of making it a procurement under the GPA, because it is tied to the donor country's sale of goods or provision of services. Why, then, do we get into this question of whether it is "wholly or mainly" funded, when nobody else has included those words?

In practice, if you include those words, every time the exemption is claimed, somebody—in fact, many people—will ask to see it demonstrated that the majority of the funding has come from an international organisation of which we are a member. That is unwise. We would be much better off sticking to the chapter of the CPTPP and the proposition that what really matters is that the procurement is conducted under the procedures of an international organisation of which we are member, and that it is funded by that organisation. The degree to which it is funded, the nature of the funding and where it comes from is not an area into which we wish to tread.

I know this is a probing amendment, but when I tabled it I thought I had better go and find out what it is all about, and I did. The conclusion I have reached is that, with respect, the Government ought to accept the amendment—maybe not at this stage, but certainly on Report. I beg to move.

Lord Purvis of Tweed (LD): My Lords, the Committee is in the debt of the noble Lord, Lord Lansley. He is rare among us in being able to identify the questions, ask them and then come up with a sensible answer, all in one. He did so on this. I am slightly anxious, because he took away the only thing I was going to mention: tied aid and some of the experiences that we have unfortunately had with it—we have banned it in the UK—and the Pergau dam situation with regards to contracts that have been issued. We have memories of how this can go awry.

I record a recent visit I made to Vietnam. I wish to see UK trade with Vietnam grow and am very supportive of any areas in which we can make that happen, but in some CPTPP member countries it is less clear than it is in the UK what the balance is between private and public enterprises and what are the funding mechanisms of bodies that would be open to potentially benefit from UK procurement access. The noble Lord asked valid questions, and I have a degree of sympathy with his conclusion that it would be worth accepting his amendment.

Lord McNicol of West Kilbride (Lab): My Lords, there is very little to add to the detailed probing question—and answers—from the noble Lord, Lord Lansley. With that, I look forward to the Minister's response.

Lord Johnson of Lainston (Con): My Lords, it is a constant pleasure to debate with such intellectual firepowers as the noble Lords, Lord McNicol and Lord Purvis, and my noble friend Lord Lansley. It is a joy to learn new things, every day, about the opportunities and benefits of free trade, particularly the CPTPP treaty itself.

However, in this instance, the Government are not keen to accept the amendment, for the simple reason that this strikes me as an absolutely eminent clarification of the procurement relationship between a UK procurer covered by the CPTPP legislation and the international procurer who would not be covered by it. It clarifies the point that, if we are in a minority funding position, we have to be in a majority funding position in order to qualify under our own procurement legislation.

Therefore, this does something very sensible: it confirms that point. I am happy to clarify this further with the noble Lord outside this room, but it would be difficult for procuring agents in the UK who were not in control of the funding process to conform to the CPTPP procurement funding processes or our own national processes. That is why this is clarified. Otherwise, if you have a minority position, you do not have control over it—if you are putting in only a small amount of capital, it makes sense for the international body to make the procurement decisions.

Maybe I have missed something, but this strikes me as quite straightforward. I felt that, of all the amendments placed today, what we were doing here seemed to make things easier and clearer, rather than more opaque.

Lord Lansley (Con): I intervene just to pre-empt my subsequent remarks. We are in Committee and may not need to return to this on Report, but it would be jolly useful to run through some case studies to examine how this works. My noble friend might help here, but this relates to whether it is exempted from covered procurement under UK procurement law. That may mean that there is less of a problem, but there is none

[Lord Lansley]
the less a risk that these are procurements that may happen in the United Kingdom—Pergau dam buying consultant engineering services, for example. We might take that and say, "Here is a big engineering project in a developing country, and the procurement includes consulting engineering services in the United Kingdom. Do we need to know whether that it is wholly or mainly funded?" Maybe we could work through some case studies.

Lord Johnson of Lainston (Con): I am grateful to the noble Lord for his intervention. The principle here is ensuring that our procurement laws cover our own activities, so it is right to clarify where that is the case. I am happy to write further on this matter. I do not see anything wrong here and, in fact, I suggested to my officials before this debate that we look specifically at an example that could help to illustrate this—one floated earlier, concerning World Bank funding, would be very good to follow up on. We are happy to demonstrate that. However, this seems eminently sensible, so, unless it were felt otherwise, I would be reluctant to give way on this point, which clarifies the issue very well.

Lord Lansley (Con): I thank my noble friend. I sense that the Committee would be happy for us to take this away and look at it. We may or may not need to return to it on Report, but I am grateful to my noble friend for that offer. I beg leave to withdraw the amendment.

Amendment 1 withdrawn.

Clause 3 agreed.

Schedule: Amendments to procurement regulations

Amendments 2 to 7 not moved.

Schedule agreed.

Clause 4: Designations of origin and geographical indications

Amendment 8

Moved by ***Lord Lansley***

8: Clause 4, page 3, line 13, leave out "established by use" and insert "in use prior to that date"

Member's explanatory statement

This amendment is to probe whether the concept of "established by use" has meaning under the Trade Marks Act 1994.

Lord Lansley (Con): This is another technical amendment to a technical Bill. It seeks to understand why the language of the Bill is precisely as it is. We are dealing here with geographical indications—GIs—and the circumstances in which a GI conflicts with a trademark.

What is a trademark? A trademark is something that is registered as such under the Trade Marks Act 1994, and it distinguishes the goods or services of one undertaking from those of other undertakings. Interestingly, Section 2 of that Act says:

"A registered trade mark is a property right … No proceedings lie to prevent or recover damages for the infringement of an unregistered trade mark".

So our starting point is that there are registered trademarks, in which rights lie, and unregistered trademarks do not enjoy that protection.

We are amending what I think is retained EU law—namely, regulation 1151/2012, Article 6 of which says that, in relation to a conflict between a potential designation for a GI and a trademark, the GI should be refused only if,

"in the light of a trade mark's reputation and renown and the length of time it has been used",

it

"would be liable to mislead the consumer as to the true identity of the product".

That is the context of this. If the combination of the GI and the trademark could mislead consumers, you have a problem and should therefore not allow the GI to be so designated. The bit on misleading the consumer has not been carried through, but maybe it is not necessary.

1.45 pm

The proposition in this legislation and the way in which the regulation is changed is that, under Clause 4(3), GIs should not be permitted in circumstances where it would lead to confusion over a trademark if,

"on the date on which the application for … the designation of origin or geographical indication is submitted",

the trademark is

"the subject of a good faith pending application"

or

"the subject of a good faith registration".

This applies if it is registered or there is an application for it to be registered, and not simply to frustrate the GI—that is the good faith bit—or if it is "established by use". The proposition that it is in use seems consistent with the Trade Marks Act, but it has not been established by use. Alternatively, is the intention that GIs could, in theory, conflict with a trademark that is unregistered but established by use? That cannot be the intention. So why is the word "established" here?

This is why I tabled my amendment. If the point is that it should be in use prior to that date—namely, it is a trademark in use and, by extension, registered—then we know where we are. However, I worry that our lawyer friends, given the opportunity, will say, "This GI should not be allowed because, although this sign or description of our product does not happen to be a registered trademark, we have established it by use, as the legislation says". I do not think there is a concept of trademarks established by use. Trademarks have to be registered. That is why the words

"in use prior to that date"—

namely, the date of the application for protection of the GI—would be a better way of describing it. I would be grateful to be educated in this matter by my noble friend. I beg to move.

Lord McNicol of West Kilbride (Lab): My Lords, I thank the noble Lord, Lord Lansley. The Trade Marks Act 1994 at no point uses the phrase "established by use". However, it specifically makes provision for registered trademarks, whereas—this was the final point of the noble Lord, Lord Lansley; he may be

wrong and looking for clarification from the Minister—if it is established by use then it would presumably be unregistered, as he said. Therefore, would it not be subject to common law through the concept known as "passing off"? With that, I look forward to the Minister's response.

Lord Johnson of Lainston (Con): As always, I am grateful to noble Lords for their points. Clearly, it is easy to confuse trademarks and geographical indications. With geographical indications, there is a principle of established use, whereas with trademarks, something is either trademarked or it is not. That is why we are comfortable with the language as it sits.

There is no reference in the Trade Marks Act 1994 to the concept of "established by use", because the concept refers to unregistered trademarks, whereas the Trade Marks Act is concerned principally with protections conferred on registered marks. However, "established by use" has meaning under the law relating to geographical indications.

Lord Lansley (Con): I remain confused because, in Clause 4(3), "established by use" relates to the trademark and not to the GI. I see the point that my noble friend makes, but where is the concept of a trademark established by use?

Lord Johnson of Lainston (Con): I apologise to my noble friend, but that is not how I read it. It is linked to designation—that is, if origin and geographical indication conflict with trademarks. It would be logical that "established by use" is in relation to geographical indications. I am afraid that that is how I have read it. I do not think that there is an inconsistency. As with all things, I am very comfortable having a further look at it, but I think it would be an issue if we took out "established by use" and inserted

"in use prior to that date",

which could result in applications for GIs being rejected under our amended rule, which is not required under CPTPP.

It is important to note that this authority allows the Secretary of State to restrict the use of a geographical indication if it is likely to cause confusion for any GIs that come in after accession or after this Bill becomes an Act. Clearly, she must have an eye to the UK legislative framework. The provision gives her the power to clarify the geographical indications. I do not believe that I have missed anything, but I am probably about to be corrected.

Lord Stevenson of Balmacara (Lab): You are not—I would not dream of doing so—but I think the point made by the noble Lord is worth further consideration. My—relatively recent—reading of it is that we are pointing in two directions. There is a question about trademarks and how they may or may not be protected consequent on us joining the CPTPP; there is also the question of the very new idea of GIs. They are recent inventions and I do not think we have quite tracked out where they go and what they do. For example, if Melton Mowbray pies are to become a standard under which we take this forward, we need to think quite carefully about what that means in relation to the countries that we are joining, because the tradition there is completely different. I am not saying that the wording is wrong, but it would be helpful to have a discussion offline.

I have always found in these matters—others will have heard me on this—that there is a small group in your Lordships' House who really understand and like intellectual property. It has a nasty habit of tripping you up if you do not get it right first time round, and we might be in that sort of territory here.

Lord Johnson of Lainston (Con): I am grateful to the noble Lord. I hope that he does not feel that I have been tripped up by this. I am very comfortable with what we have drafted. It gives protections in the right way for GIs which are established by use, and it clarifies the difference between those and trademarks. As with all things, it is important that we have a deep discussion about this, so I am very comfortable having further debates about it. We will no doubt return to this matter, because it is important. It is not a political point to make but a technical point to ensure that we are doing it in the right way. As the noble Lord rightly pointed out, GIs are a relatively new concept. At the same time, it makes sense to ensure that our historical GIs which have been in established use are properly protected. We have the opportunity to protect them into the future against other GIs that may cause confusion with commercial intent.

I ask the noble Lord to withdraw his amendment, but, clearly, we are happy to have further discussions and I am sure that my officials will engage on that at the first possible opportunity.

Lord Lansley (Con): I am grateful to my noble friend. I am very happy to proceed on the basis he proposes, but I say that the way it is structured at the moment, "established by use" relates to the trademark, not to the GI, so the concept of a trademark established by use in statute when it is not in the Trade Marks Act seems a potential problem. I leave that thought. We will talk about it more and may need to come back to it, just as we did on the preceding group. I am grateful to my noble friend for his willingness to have a good look at it. I beg leave to withdraw the amendment.

Amendment 8 withdrawn.

Amendment 8A

Moved by ***Lord Purvis of Tweed***

8A: Clause 4, page 5, line 4, at end insert—

"(13) The Secretary of State must, within 12 months of the passing of this Act, lay a report before Parliament on—

(a) protections for UK geographical indicators in territories of each CPTPP party, and

(b) accountability of the self-certification on rules of origin."

Member's explanatory statement

This probing amendment would require the Secretary of State to lay a report before parliament on protections for UK geographical indicators and accountability surrounding the self-certification of the rules of origin in each CPTPP country.

Lord Purvis of Tweed (LD): My Lords, Amendment 8A builds on Amendment 8 to some extent because it also relates to geographical indications, and if there is to be further information from the Government with regard to the interaction with trademarks, I look forward to seeing it. It is linked. As someone who lives in and represented a consistency in Scotland, I know that there are particular aspects with regard to the Scottish and Welsh Governments and geographical indications in those areas. Indeed, it could well be that there are trademarks for certain products in those areas. If we are now in a situation where there is to be wider use of other CPTPP countries' trademarks and geographical indications that are not to be policed under this treaty, the points that the noble Lord, Lord Lansley, raised are valid. I listened carefully to what the Minister said, but they are valid. I cannot speak on behalf of the Scottish Government or the Welsh Government, nor would I wish to, but the issues that they have raised are important.

Mine is another probing amendment and, indeed, another reporting amendment because it is seeking reports on how businesses are operating in what is potentially a more complex environment in addition to better market opportunities. Ultimately, where the treaty is going to be a success or failure is in whether our businesses understand what opportunities are available to them or whether they decide that there are more complexities in utilising some of the agreement than there will be economic benefits for them. For very small businesses that may be valid, given, as we know, that it is not the tariff aspect of this agreement that is important but the non-tariff aspects. Regular reporting on the protection of UK GIs in this market will therefore be very important. As I mentioned earlier, when it comes to GIs there are no more protections under this agreement, but the interaction with how we will be able to export very important UK GI goods will be vital.

The Minister will be well aware that very many businesses manufacturing products that benefit from an EU-protected UK GI are small businesses. Melton Mowbray is one example, as was mentioned, but there is a whole series. They are small businesses—some are micro-businesses—and therefore the complexities involved will require government help. Guidance and support will be vital for them. We know, because we debated it at length on the Australia agreement, that the protection of UK GIs in Australia, as it will be in many areas, is dependent on the European Union policing them, because that is a consequence of the UK agreement with the European Union. Our ability to police the protection of our GIs now resides in Brussels. That may or may not be desirable, depending on your particular persuasion, but it is a fact. The relationship and interaction with the European Union on this will therefore also be very important. GI protection for UK accession to the CPTPP is reliant on the European Union. I would be grateful if the Minister could say what discussions he has had with his counterpart, the European Trade Commissioner, about how the EU is minded about doing us the wee favour of protecting our goods in the CPTPP agreement. Is there a written understanding when it comes to UK accession to CPTPP that the Commission will police our goods for us because that is the situation in Australia?

Given that the vast majority of the CPTPP countries have trade agreements with the European Union, it will police both: it will police its champagne and our pork pies. I wonder which it will give preference to? Of course, they match, and they should have equal status for protections, but I would be grateful to hear what response the Minister has had to his pleas that the European Union will protect us.

2 pm

The second aspect is rules of origin. I sometimes try to do a Lansley but fail when trying to understand some of the technical nature of this. My understanding of the rules of origin for the CPTPP is that there will be a different method of calculating regional value content, as opposed to that which we have agreed through the UK-EU TCA—I am happy to be corrected on that. On the face of it, the rules of origin accumulation is positive, and it could allow businesses to benefit from a wider and, potentially, a deeper supply chain with goods.

The calculation mechanisms, however, are different. Therefore, if a business is operating under a supply chain under the CPTPP and operating under a supply chain with the European Union—indeed, many of these will be the same supply chain because of the EU's existing agreements with these countries—it will be asked to calculate the content value differently. I understand that, under the CPTPP, it will be a build-up or a build-down mechanism; these relate to the maximum and the minimum amounts of local content. The European Union uses a different calculating method for non-originating materials, under a maximum non-originating percentage. If the Committee is still with me, this will mean that, when businesses self-certify and are operating in the same market with the same customers, they may have to operate with two different ways of calculating the value content, depending on whether they are from the EU or the CPTPP. Obviously, for some businesses and large operations, this may not be an issue at all: they will just have their advisers or consultants who are able to do that, and the methods of record-keeping, verification and certification will be fine for them. For others, however, this will be a complexity, and I am interested to know whether this has been factored into the Government's assessment of how businesses will utilise the elements of the rules of origin for the CPTPP.

Given that the vast majority of this will be self-certification, are we satisfied about the veracity of how that document keeping, verification and certification will be carried out? I believe there are potential areas of significance for this, not just in how we police how this will be operated but in whether businesses will take the opportunity. I believe that it is likely to be one of the principal non-tariff barrier elements that we will need to resolve if we are to see utilisation of the agreement. Therefore, I hope the Government will accede to there being a regular report so that we are able to identify problems that need to be overcome and challenges with the dual system that will be operated. Fundamentally, if we are diverging from one—the EU—does that create complications with the other and vice versa? I beg to move.

Lord Davies of Brixton (Lab): My Lords, Amendment 34 is in my name. I first have to repeat what I discover is true of quite a few participants in today's debate: I did not speak at Second Reading. I am afraid my excuse is not quite as good as those of some Members, as I was on holiday, so I ask noble Lords to forgive me for that. It was arranged some time before.

I understand that it is not in order to give a Second Reading speech and I do not intend to do so. However, I will say that I am in favour of free trade—of ever loosening-up trade—and I recognise the remarks that the Minister made at Second Reading and has repeated in today's discussions. I could chase that issue but I will resist the temptation, except to say that free trade comes with conditions. The "free" aspect has limits, which have regard to wider policies, most obviously climate change but there is also food safety—the whole range. They are part of the process of agreeing free trade, and the objective of free trade should not supersede those other objectives. They have to work together; we have to find a balance between them and I accept that. In addition, I point out that this is an advance in free trade. The biggest blow that we have had to widening free trade over the last 10 years is of course, Brexit—I will leave that one there.

My amendment introduces some requirements on the Secretary of State. On reflection, it does not fit all that well with the first amendment in this group. However, we are where we are, and the common theme is placing a requirement on the Secretary of State to report. This is one of the shortcomings of the Bill. It is of course only narrowly focused on the technical aspects that require changes in domestic legislation, the treaty having been decided and promulgated on the royal prerogative, hence the involvement of Parliament in drawing up what is, effectively, a form of legislation has been limited. We have two committees which look at these sorts of issues, and I understand that we are still waiting to hear their views on the overall structure; here we are just looking at these technical aspects. Having said that, it is reasonable to introduce these obligations on the Secretary of State. They are broadly self-explanatory; it does not need me to explain to your Lordships the importance of these requirements of policy that have to fit with freer trade.

I will say just a bit more about proposed new subsection (1)(b), on the importance of the precautionary principle. As ever, it is a question of balance. You can carry the precautionary principle too far but it comes into this discussion. My understanding is that the CPTPP preferences the science-based approach to regulation over and above the precautionary principle in what is acceptable in limitations. The science-based approach requires parties to demonstrate a scientific basis for regulation, which could of course be a problem where there is no such basis, there are no means to develop it, or scientific papers have been published by an industry which has a vested interest in avoiding the difficult questions of supporting a particular outcome. Therefore, I stress that it is important that we understand the extent to which the precautionary principle has been superseded by vested interests in particular approaches. This is not a new principle; it is there in the Environment Act 2021. I should like the Minister to say in reply that he understands that issue, and perhaps it could be discussed in more detail prior to Report.

Lord Kerr of Kinlochard (CB): I will say a brief word on Amendment 8A. Contrary to the habit of a lifetime, I played by the rules and did speak at Second Reading. I made clear that I warmly welcome our accession to the CPTPP and that I have no difficulty with the main points in this Bill.

On Amendment 8A, I am sympathetic, but I think that one needs to think quite hard about the timing. Within 12 months of the passing of this Act, the Government would be required to submit reports on two important areas of performance: how the—very welcome—rules of origin provisions are working out, and how respect for geographical indications is being honoured.

I do not know when our accession will take effect—none of us does—because it will depend on who is last to ratify our accession. It is conceivable that it might take all of 12 months or more than 12 months before this happens. To say that the report will be required within 12 months of our passing the Act is slightly odd. If the report is going to be useful, it needs to take account of what has actually gone on—the experience—with regard to how the rules of origin are being respected and how self-certification of rules of origin is working out.

Although I support the principle of the report—because these are both extremely important provisions within the CPTPP, and a report to see how they are working out seems a good idea—I really do not think that it is a good idea to ask the Government to do so within 12 months of the passing of the Act.

Lord Alton of Liverpool (CB): My Lords, unlike my noble friend Lord Kerr of Kinlochard, I am afraid that I was not present for the Second Reading debate—I was with the noble Viscount, Lord Trenchard, who spoke earlier on, as the other half of the reception committee that welcomed the President of the Republic of Korea. I hope that we played our small part in deepening the friendship and relationship between this country and the wonderful, vibrant democracy of the Republic of Korea, with which I hope we will deepen our trade relations as the years go by.

I also have an amendment for consideration later, which will probably be reached on our second day in Committee. It also has within it a reporting mechanism. I agree with my noble friend that 12 months may not be the right time, but the noble Lord, Lord Davies of Brixton, and my friend, the noble Lord, Lord Purvis of Tweed, are right to have both articulated the need for Parliament to have reports laid before it. That is the principle, but how one does that, the mechanisms that we use and the timeframes we place on it are surely open to discussion. The Government should not quail at the idea of there being time for Parliament to look back at what has happened to something such as the CPTPP. I must say that I also welcome the CPTPP; I strongly believe that the Government have done the right thing in promoting this opportunity for the United Kingdom. I have no issues whatever with

[Lord Alton of Liverpool]
that; my issues would come later about some of the partners we might have in the future. We will discuss that later on.

This idea that Parliament should discuss the nature of trade is not new. With the help of the House of Lords Library, I was looking at the debates that took place in 1857 when the great champion of free trade, Richard Cobden, denounced the opium trade in a three-day debate in which two relatively young MPs—William Ewart Gladstone and Benjamin Disraeli—joined forces across the political divide to support him, just as Cobden had stood with William Wilberforce in denouncing the trade in human beings. He was against the slave trade. There were red lines not to be crossed.

2.15 pm

It is not just about free trade at any cost. We need to know what partnerships we are involved in and what their implications may be for us. I give just one example of this. The noble Lord, Lord Purvis of Tweed, talked about the importance of supply chains and looking at them in granular detail. We know where these products are coming from and who was involved in their production. Only a week ago, I raised on the Floor of the House the issue of cobalt and the use of child labour in the mines of the Democratic Republic of the Congo. I think all of us have seen the horrific reports of young children standing up to their knees—barefoot and with no leggings—and having to work in toxic conditions. This has been detailed in an amazing book called *Cobalt Red*.

This is about lithium and the production of all the renewables that we want to see, which often use child and slave labour not just in places such as the Democratic Republic of the Congo but ultimately in the finished products in places such as the People's Republic of China. I see that the Campaign for Uyghurs—I declare a non-financial interest as vice-chair of the All-party Group on Uyghurs—has today produced new evidence of Volkswagen being involved in the use of slave labour in its products.

These are things that will be in our supply chains and which we have a duty to look at, discuss and reflect on in due course. That is why these amendments are important. The principle behind them is that Parliament should be involved in this and have the chance to have its say. I support these amendments. I recognise, as my noble friend has done, that maybe they should be tweaked into a form that the Government find more usable and convenient. They could even be remitted to the relevant Select Committees in the first instance for them to analyse in some detail.

Lord Foster of Bath (LD): My Lords, I will speak very briefly. Like others, I will declare whether I spoke at Second Reading—the answer is that I did. I entirely agree with the Minister's earlier remarks that we should learn something new every day. When I was a member of the International Agreements Committee, I learned a great deal from some of its members who are present today and I continue to learn from them—not least the noble Lords, Lord Lansley and Lord Kerr, and my noble friend Lord Purvis.

I will pick up a very small point, which has not quite been covered, on rules of origin. As everyone is well aware, the rules of origin chapters in all our free trade agreements are incredibly complicated, as is the way in which different bodies will have to check whether they have been complied with. I notice with great interest that a report was carried out into whether the UK was suitable for membership of the CPTPP, in which CPTPP countries checked out, through a round of questions and discussions, for example, our ability to comply with its rules of origin requirements. Bearing in mind that we already have trade agreements with a number of CPTPP members—Australia, New Zealand and so on—we know that there are details in the agreement on how rules of origin will be checked out. As part of that procedure, there will be a working party on rules of origin between, for instance, New Zealand and us for its trade deal and one between Australia and us for its trade deal. I have been unable to locate details of whether there is to be a similar committee, ad hoc group or working party that will look at compliance with rules of origin. Can the Minister tell us whether that is the case?

The ultimate arbiter of whether rules of origin have been complied with will be the customs organisations in the relevant member countries. They include our customs services, which will be required to make decisions about whether to investigate particular cases in relation to compliance with rules of origin. Given the possibility that there can be goods coming from, say, Australia to the UK using the Australia free trade agreement or the CPTPP arrangements, with a slightly different rules of origin arrangement, as my noble friend pointed out, this is clearly a very complex issue for the customs authorities. Can the Minister give us an absolute assurance that appropriate support, finances, additional personnel and training are being provided to our customs services to enable them to carry out this difficult task, particularly when other member countries have had time to interrogate whether we are up to scratch but we have not yet had an opportunity to check whether the other member countries are up to scratch?

Lord Lansley (Con): I take this opportunity to remind noble Lords of my registered interest as the UK co-chair of the UK-Japan 21st Century Group, in so far as Japan is a member of the CPTPP—and, as my noble friend Lord Trenchard said, not only a member but a leading advocate of UK membership, for which we are very grateful.

I am reminded by the opening speech of the noble Lord, Lord Purvis of Tweed, on his amendment, that, in the past, when we have been looking at the free trade agreements into which we have entered with Australia and Japan, in both cases we anticipated that, in time, we would enjoy the protection of our GIs in those countries. As the noble Lord, Lord Purvis, said, where Australia is concerned, that was contingent upon the Australia-EU agreement. As far as I can tell, although the Australian Government have undertaken their own study, there is no such agreement, so presumably there has been no action.

My questions are these. First, are we making any moves with our Australian friends under our free trade agreement with them to proceed, notwithstanding

the absence of an EU agreement with Australia? It seems very unwise and unhelpful for us to be tied to the EU agreement. Secondly, Japan was very willing to consider it, but it was going to be considered under its procedures and that was going to take some time. Are we making progress? It would be great to know that we are. I think there is a willing and important market for UK goods with geographical indications and so on in Japan, even where Scotch whisky is concerned. I think this is the case in many other CPTPP countries, so it is quite important that we get that GI protection. I hope my noble friend can say something, if not now then at a later stage, about the progress we are making with Japan and Australia on getting our GIs recognised there.

Viscount Trenchard (Con): My Lords, I entirely endorse what my noble friend Lord Lansley has just said. There is considerable room for confusion between trademarks and geographic indications, a relatively new concept, especially the application of restrictions or protections for geographic indications in countries whose language is not only not English but is far away from any language used in the European Union. Consider, for example, suits. A common word for a suit of clothes in Japanese is "sebiro", which comes from "Savile Row". Is that not a kind of geographic indication? I think there is scope for considerable confusion there.

The other amendment in this group, Amendment 34, was ably spoken to by the noble Lord, Lord Davies of Brixton. I worry about giving additional protection to the precautionary principle. Putting too much store by the precautionary principle has led us to be too averse to risk in many aspects of our national life and it is likely to lead to restrictions on the economic growth that we so badly need. Our accession to CPTPP is an opportunity to enhance that growth by developing more trade with the fastest-growing part of the world, including countries which place less store on the precautionary principle. I worry that, if we try to export the unduly cumbersome regulatory regime that we have had until now into countries that are growing faster and which have a more proportionate approach to the subject, it will cause, at best, restrictions on us taking up the opportunities that are available.

Lastly, I entirely agree with the good point made by the noble Lord, Lord Kerr of Kinlochard, that our accession may not take effect until a year or more after the passage of the Act, and so the question of the timing of the report being made to Parliament is a very appropriate one.

Lord McNicol of West Kilbride (Lab): My Lords, let us deal with this Second Reading issue. My understanding of the *Companion* is that there is no need to have spoken at Second Reading. It is very nice that noble Lords have apologised but there is no need; all are welcome in Committee, even if they did not speak at Second Reading, and so noble Lords do not need to give excuses for why they were not there.

The noble Viscount, Lord Trenchard, touched on a point about restrictions. The amendment tabled by my noble friend Lord Davies is a neat way of dealing with a number of the issues that will arise and that we will need to deal with. Let us take environmental principles and look at a number of the countries that we will be joining with in CPTPP. Take pesticides, which I am sure will come up again in the next group, on our second day in Committee. PAN UK analysis conducted in 2021 revealed that there are 119 pesticides, active substances, that we have banned in the UK to protect our health and environment but which are still permitted in one or more of the CPTTP member countries. Of that total, 67 are classified as highly hazardous pesticides. If these pesticides are used in these countries just now, and we have banned them in this country for very good and sensible reasons, how do the department and the Government protect consumers and farmers in the UK? The way to do that is very neatly set out in the amendment laid by my noble friend about taking note of this and the Secretary of State having to deal with it.

2.30 pm

There are many other factors, such as child labour and labour standards, which we do not accept in this country. If they are accepted in other countries, they can then be used to undercut manufacturers and businesses in our country. We need some form of protection that sits across that as well. More amendments are coming on day 2 that will deal with that.

The noble Lord, Lord Purvis of Tweed, explained that his amendment is a probing amendment that would require the Secretary of State to lay a report before Parliament. The fundamental question goes back to comments that were made as part of this debate. If there was a full debate in Parliament, would such a report be necessary? It is possible because we are looking one year, 18 months or two years down the line. The noble Lord's amendment would require the Secretary of State to lay a report on protections for UK GIs and accountability of the self-certification of the rules of origin in each CPTPP country. Notwithstanding the comments by the noble Lord, Lord Kerr, about the date and timing of that, this again seems an eminently sensible amendment. Once we have gone through accession, we should look back to see the effect on our GIs and our businesses.

The intellectual property chapter covers multiple forms of IP, including patents, geographical indications, copyright, trade secrets, trademarks and designs, as well as their enforcement. The text sets minimum standards of protections across these areas, creating a shared baseline of protection in CPTPP parties' domestic regimes. Again, that is eminently sensible.

Most of the other points have been covered. I look forward to the Minister's response.

Baroness Lawlor (Con): My Lords, apropos of the amendment in the name of the noble Lord, Lord Davies, it is important not to get carried away by the precautionary principle because it introduces difficult conflicts in the arrangements of our own law. The precautionary principle owes a great deal to the civil law tradition and its code-based arrangements, whereas our common-law approach is much more open and based on case law, and it is more conducive to our businesses.

Lord Johnson of Lainston (Con): I thank everyone who attended Second Reading. It seems a very few did; I do not know where everyone has come from

[Lord Johnson of Lainston]
since then. I was there. I believe it was the noble Lord, Lord Purvis, who recommended that I read the *Hansard* of the Second Reading, which I thought was peculiar, since I definitely remember being there, but maybe it was an avatar or a creation. None the less, it is important that people feel that they can come into and out of these different discussions to add value where they can.

I shall try to answer these very important points in order, but please forgive me if I miss anything because I want to make sure that we have a chance to go through them. I shall begin by addressing the comments of the noble Lord, Lord Purvis, as much as the amendment itself. The noble Baroness, Lady McIntosh, raised the same point slightly earlier, which I did not cover, about our agricultural attachés and the importance of making the most of our free trade agreements. I completely agree that there is an unlimited amount that any Government can do to promote the advantages of free trade and the free trade agreements, so I am keen and open, as is the department, to hear any views or suggestions that we can deploy effectively and cost-effectively to spread the word. It is why these debates are so important.

It is also why the initiatives we have taken are very relevant. We are assessing a range of different options, including using AI to feed into information we get from HMRC on what companies are engaged in or where they are already exporting to. Where there may be overlaps, we can then contact the companies and promote the different free trade options. It is complicated, but essential because if we do not promote the free trade options, what are we doing having these lengthy debates about free trade agreements? I am happy to be pressed on that. Clearly, it is important that the department reports on the assistance it gives to exporters, and it does. For example, earlier today I was talking to one of our IT staff who was presenting to me the effects that their specific system is having on exports. He listed a very significant total which he said was growing continually. These sorts of areas are reported on, and they should be. We should be held to account on that.

When it comes to specific reports on the effect on GIs, the noble Lord is trying to approach two concepts, as I understand it. First, there will be derogative elements on GIs, so have we protected our GIs and is there a protection regime being effectively deployed on account of us joining the CPTPP? That is difficult to do because not all countries have a multilateral agreement rather than a single country-to-country free trade agreement, and not all countries—I am afraid I cannot recall which ones but Australia and New Zealand in relation to our relationship via the EU is a good example—have geographical indications regimes, so it would not count; they could not police it. However, by having these stated relationships and highlighting these principles, we already go a long way to effectively protecting our GIs in CPTPP countries because we have a forum in which we can have open and frank discussions. It is clearly not in any country's interest to derogate another country's trademark policies, GIs or whatever. It would be difficult to apply this piece, but I am fully aware of the importance of making sure that this is clearly monitored.

The second part goes back to my first answer, which was about how we make the most of our GIs, such as cheddar cheese or whatever. We continue to invest particularly in the area of agriculture. I think we have one dozen—it may be nine, but between nine and 12—agricultural attachés placed around the world, funded by Defra and supported by the Department for Business and Trade and the Foreign, Commonwealth and Development Office. It is a multistrand initiative, which we think is very important in order to promote these products. Scotch whisky has been mentioned. As we are aware, tariffs into Malaysia will be reduced in gradations from 80%—a rate which effectively doubles the price of a bottle of whisky—to effectively zero over the next 10 years. These are important changes. I see them as agricultural products—food, drink and agricultural products linking together to be supported.

A number of noble Peers rightly raised the point about reporting. I will not go into all the different details, but I will try to touch on them. I would be reluctant—we will have this debate in the next Committee session on 14 December—statutorily to oblige the Secretary of State to undertake significant, specific levels of reporting. Noble Lords might say that that is because I am a government Minister, and officials always tell Ministers to avoid producing statutory reports. As a civilian, before I entered this job, I asked, "Why are we not producing more reports?" Having gone into the Government, I now realise that you can produce a lot of reports, but the problem is that if they are statutory government reports, the principles behind them can often become outdated very fast, so you lose flexibility. They are also enormously costly to produce. I see how the government machine functions: it rightly respects Parliament and its writ and so wants to dot the "i"s and cross the "t"s, so you often end up producing supposedly very comprehensive reports that do not really tell us what we are looking for.

What we have agreed to and will see over the next period is much more useful. In 2024, CPTPP countries will do a review of CPTPP and how it has worked. Two years after our accession to the treaty we will produce a summary report on the effects of CPTPP, and after five years we will produce a full report. It would be more useful to clarify the sorts of areas we wish to cover in those reports. We had this debate with Australia and New Zealand, and we came to some sensible conclusions. I was very happy giving Dispatch Box commitments, as a government Minister, that these will be the so-called obvious areas that we will want to investigate. Clearly one of them will be whether we have protected our intellectual property of whatever type, and others will be the effect on the environment and on standards, if any.

On that, to go to my next point, which the noble Lord, Lord Davies, raised in association with his amendment, I think there has been some misunderstanding as to what a free trade agreement is. A free trade agreement does not change anything about UK standards. We already trade with all those countries significantly, such as with Malaysia. Perhaps I should raise my interests so they are on record: I have done a huge amount of business in the past with all those countries, and I still have interests in companies that operate in them—maybe I should have said it at the beginning, although I do

not think it is relevant to this debate. However, I was doing business there when we did not have the CPTPP, so it does not make any difference to the standards employed in this country—there is no derogation from our standards.

If my officials agree, I will read from the excellent report from the Trade and Agriculture Commission, which your Lordships will all have read and which I think came out today—I am never quite sure what is in the public domain or not, but this is. I shall read out only two questions. Question 1 is:

"Does CPTPP require the UK to change its levels of statutory protection in relation to (a) animal or plant life or health, (b) animal welfare, and (c) environmental protection? Answer: No".

Question 2 is:

"Does CPTPP reinforce the UK's levels of statutory protection in these areas? Answer: Yes".

That is pretty relevant for me—I hope your Lordships do not think I am being glib, because clearly the report says more than that. However, that is an important assessment—I think some noble Lords sit on the TAC, but maybe not those in the Room today. It is not about derogating our standards in any way but is particularly about making sure that our businesses can deploy their skill sets and expertise more effectively, with less friction and with lower tariffs, which is good for the consumer and for our businesses. However, it does not change our standards, or, by the way, the standards of the countries to which we are exporting.

I will roll on to the other points, which are on the rules of origin. It is perfectly normal for traders to self-certify, and in fact, that is what we want. I have visited freeports recently, another great initiative of this Government, so I have seen a number of port activities. Efficient port activities rely on ad hoc inspections, therefore risk-based approaches to customs clearances for most things, and that is absolutely right. Although the rules of origin are complicated, and there are varying channels of rules of origin, as the noble Lord, Lord Foster, so rightly pointed out, it is up to the company to choose the avenue that it uses. I believe that we have the right resources to make sure that our rules of origin processes are properly checked, and I have continued to check that. However, there is also a committee in CPTPP on the rules of origin so this can be further discussed and clarified. It met last month and we attended it as an acceding member, so we are already participating in this, which is important.

The noble Lord, Lord Kerr, rightly raised the principle around the timing of the report; I think I covered that point in the sense that certainly after 12 months it would be unhelpful to produce a report on anything, frankly. However, if we are going to produce a report after two years, which we have committed to do, I am very happy to have further discussions about what will be in that report and what will be in the five-year report.

I was delighted that the noble Lord, Lord Alton, raised the extremely close relationship that we have with Korea— rather than attend the Second Reading, he and the noble Viscount, Lord Trenchard, attended the address by President Yoon. That is a good example in that although South Korea is not a member of CPTPP, we celebrated, thanks to the good works of the investment team, over £20 billion-worth of investment in the UK. That was a significant celebration of the depth of our relationship with Korea—if I may say that as an aside and champion the investment department at the Department for Business and Trade.

I will cover two points on the precautionary principle, which the noble Viscount, Lord Trenchard, raised, which is important, and it is clearly in this amendment. The precautionary principle already exists in the Environment Act 2021, so I think the Secretary of State has to have an eye to it in her activities, as do all Secretaries of State. To add it into this free trade agreement would create unnecessary duplication and parallel obligations, which causes confusion for businesses and countries.

Lord Davies of Brixton (Lab): The Minister is quite correct. It is in a statement associated with the Act, but it applies only to the environment. Of course, the trade under this Bill goes somewhat wider, and there is just the thought that it should apply more broadly across the potential changes in protections.

2.45 pm

Lord Johnson of Lainston (Con): I thank the noble Lord for that comment; I am happy to have a discussion with him and other noble Lords about this. We would resist this significantly. It would cause confusion to have parallel principles around how the Secretary of State should act in relation to this FTA and in other areas, in terms of how we manage our own economy and how we check our supply chains. The noble Lord, Lord McNicol, was right to raise the concept of supply chains; I have conversations with many noble Lords in many instances about the principles around how we protect our products in this country from supply chains that we find are either not aligned with our values—as well raised by the noble Lord, Lord Alton—or lack competitive advantage. I have great sympathy in particular with the agriculture sector, with which I have engaged significantly and which says that it is not about free trade but that we are obliged to conform to standards that are significantly higher than in other countries. It is classified as unfair, and we are very sensitive to that.

Lord Alton of Liverpool (CB): I am grateful to the Minister for referring explicitly to the supply chain issue. It should form the basis of further discussion, perhaps outside the Committee and before we get to Report. If we look at the requirements under the 2015 modern slavery legislation—pioneered by the Minister's right honourable friend Theresa May during her time in the Home Office—we see that it places duties on us to look at the way in which products have been manufactured. It is not just about the precautionary principle; this is asking us, every time we take decisions about things that we are going to purchase in this country, what the supply chain was. It is not just about free trade; it is about fair trade. How can manufacturing industry in the United Kingdom possibly compete if people are using slave labour in places in Xinjiang?

I take the Minister back, if I may, to the amendments that I moved during the passage of the Trade Act 2021 and the Health and Care Act 2022 and, indeed—as the noble Lord, Lord Lansley, and others will recall—the Procurement Act 2023. They all looked at our duties and obligations under the 2015 legislation. By very

[Lord Alton of Liverpool]
significant margins, cross-party amendments were added to all those pieces of legislation. I simply ask the Minister: how will we comply with the 2015 Act? Would he agree to have discussions outside the Committee before we go further on that point?

Lord Johnson of Lainston (Con): I absolutely make myself available to have discussions outside this Committee on all points. I refer the noble Lord, Lord Alton, to my original statement that collaboration around this is very high.

I will try to make a philosophical point which I think is very important: this is a free trade agreement. It is concerned principally with tariffs, smooth movement of trade and other principles. It is very important to separate that from the important standards that we hold ourselves to in this country. It is right that we have a number of very important pieces of legislation that drive standards in supply chains. Any of us who have been involved in business know that we have to ascertain our supply chains. In other areas, particularly in relation to the environment, I believe that supply chains are covered very well by our legal processes in terms of child slavery and other abhorrent activities. That is well understood and the supply chain obligations are very clearly understood. In the environment, it is still more nuanced. It will always be a complex area, because other geographies clearly have different environmental advantages and disadvantages compared with us. We are still working on that, but it is for a separate track of legislation. I do not think that it is right to confuse the principles of the legislation around free trade agreements with legislation around our own supply chain obligations.

When given the decision, should one be in a free trade area, able to bring to bear one's own values to make necessary changes, or not be, because you do not believe that the participant parties are aligned with your values? I would prefer always to pick the former.

Although I would not necessarily suggest that there was a significant gulf between us, Australia and New Zealand when we negotiated the Australia and New Zealand FTAs, there is absolutely no doubt in my mind that the engagement with the UK on environmental and animal welfare issues resulted in significant changes in the Australian and New Zealand domestic animal welfare and environment policies. I have no specific evidence of that, but I know full well that there were strong levels of conversation around that and, at the same time, Australia and New Zealand made significant changes in our direction in both areas. Either that was a great coincidence or it was partially supported by the fact that we were collaborating with them more effectively. This is what the CPTPP will allow us to do.

I refer back to the TAC report, which made clear our own standards for pesticides, which were raised by the noble Lord, Lord McNicol. That does not change: nothing changes in our standards the day after CPTPP comes into force—that is for our own sovereignty to control.

I ask that this amendment is withdrawn, but clearly I am here to discuss in detail how we can reassure noble Lords that the principles around the need to report on the effectiveness and concomitant effects of the FTA are properly established, as well as other key points around derogation and key values issues, which should be properly controlled and contained.

Lord Purvis of Tweed (LD): I am grateful for the Minister's helpful and interesting reply. My understanding is that Ministers are always advised to read *Hansard*: that is when they find out, the next day, what they should have said at the Dispatch Box and what officials have made sure is in print. The noble Lord, Lord McNicol, is absolutely right: nothing in the *Companion* required noble Lords to say that they met the President of Korea, but I guess it sounds good.

I thank all noble Lords who took part. At the start of his contribution, the Minister said that he did not see the value of the statutory reporting in many respects. I noted that he subsequently quoted from a statutory report and said that there was great value in it. Given that the TAC was the result of amendments that Parliament asked of the Government, I will take the second part of what he said as the basis of the ministerial response—there is great value in that statutory report. But, as my noble friend Lord Foster said at Second Reading at col. 700, it would have been helpful to have had that report in advance of the start of the Second Reading. Nevertheless, we will study that report now that it has been released.

The noble Viscount, Lord Trenchard, was right to make reference to the growing economies within this area. However, if we had the data on the growth of the CPTPP economies and stripped out their reliance on the growth of the Chinese economy, I wonder what those growth figures would look like vis-à-vis those in Europe. I suspect that they would be rather similar. It is hard to disaggregate the growth of the Asia-Pacific economy from that of the Chinese economy. I note that UK imports from China, for example, have grown to over £40 billion, now that we have a trade deficit in goods with China. The impact of China's growth is disproportionate with regard to them all.

Viscount Trenchard (Con): China is not a member of the CPTPP, so I absolutely do not understand the relevance of what the noble Lord said. My point was that, for the CPTPP 11—soon to be 12—the economic growth rate is twice that of the European Union.

Lord Purvis of Tweed (LD): I am fully aware that China is not a member—I do not think there is any doubt about that—but surely the noble Viscount is aware that the growth levels of the Vietnam economy have been entirely, or at least very largely, dependent on the growth of the Chinese economy. Given that New Zealand has had a free trade agreement with China for more than 20 years, the growth of the Chinese economy has been a major, if not the predominant, factor in the growth of the Asia-Pacific economy, which—it is regularly cited—is the fastest-growing economy and one we need to be part of. It is the fastest growing because it has been dependent on the growth of the Chinese economy—but that is an overall debate.

On the CPTPP members, the noble Lord, Lord Lansley, is absolutely right: with some of them, such as Australia, we are still awaiting the police of the GIs—the European Union, for us—to make an agreement with it. We are still in that situation. My noble friend Lord Foster raised that where businesses have an opportunity to choose between two systems, for some businesses that is a burden because of the complexities associated with that and therefore clarity on advice about the preferential way of utilising this is important. The Minister responded very fairly.

I agree with the thrust of what the noble Lord, Lord Davies, said. I know that he will be in the Chamber for the Rwanda Statement, but in response to the point made by the noble Lord, Lord Kerr, with regard to my drafting, there are even greater powers than the Minister or others in this Committee. They are the clerks in the Public Bill Office who tell us what is or is not in scope of the Bill, so my drafting was in order to satisfy the greatest authority, the Public Bill Office, in order to put down an amendment so we could discuss it. However, I am very happy to explore further options. This issue, connected with those raised by the noble Lord, Lord Alton, that we will discuss in future, is significant.

Lord Alton of Liverpool (CB): I am very grateful to the noble Lord, Lord Purvis. Given what the Minister said a few moments ago about Malaysia, I draw his attention to a report in today's *Daily Telegraph* about Shimano, which I think is the biggest bicycle parts company in the world, which operates out of Japan. It is selling through a supplier in Malaysia products that have been made by slave labour in Nepal. That is a good illustration of the kind of problems that we will run into. Although that is not necessarily part of the treaty, it is part of our obligations under British law to ensure that such things do not enter our supply chain.

Lord Purvis of Tweed (LD): I am grateful to my friend the noble Lord, Lord Alton, because he and I often think alike in many of these areas. He slightly pre-empted me because I was specifically mentioning Malaysia to close and to stress why it is important. With the greatest of respect to the Minister, I think it is valid to know on the record what the interest in Malaysia is since we will be debating it going forward. In 2021, in the Chamber I raised the fact that the UK had a £316 million contract with a Malaysian firm, Supermax, to supply PPE gloves through NHS Supply Chain. That company's exports to the United States were impounded by the United States because of contraventions of ILO standards and slave labour concerns. This has still not been resolved. I raised that, and I was grateful to the Minister's predecessor, the noble Lord, Lord Grimstone, who initiated a review within the department. As I understand it, this is still being litigated. I do not expect the Minister to have an answer today, but I would be grateful if he would write to me because this is pertinent to the next stage in Committee with regard to multi-million-pound contracts through supply chains. I know that NHS Supply Chain is a distinct part of the NHS. With regard to this Malaysian firm, the United States activated powers which we did not. Now, with regard to procurement, as the noble Lord, Lord Lansley, indicated, supply chains and the standards that we seek, there are genuine, valid concerns. I remind the Committee that the contract was worth £316 million. The United States had the equivalent impounded.

I know that we will come back to some of these general issues. I am grateful to noble Lords who have taken part and grateful to the Minister, who as always is open and accessible to discuss these aspects. I beg leave to withdraw the amendment.

Amendment 8A withdrawn.

Clause 4 agreed.

Clause 5: Performers' rights

Amendment 9

Moved by ***Lord Lansley***

9: Clause 5, page 6, line 6, at end insert—

"(3A) In section 206, after subsection (4) insert—

"(4A) Prior to His Majesty making an order in Council under subsection (4)(b) the Secretary of State must consult those whom they consider appropriate including representatives of United Kingdom rightsholders."

(3B) In section 208 (countries enjoying reciprocal protection), after subsection (1) insert—

"(1A) Prior to His Majesty making an Order in Council under this section, the Secretary of State must consult those whom they consider appropriate including representatives of United Kingdom rightsholders.""

Member's explanatory statement

This amendment would require consultation to take place regarding reciprocal protection for United Kingdom performers in a qualifying country before is it designated as such.

Lord Lansley (Con): My Lords, we come now to the question of performers' rights. I will not dwell at length on the purposes of Clause 5 but merely focus on the processes that it puts in place in relation to the definition of a qualifying country. There is a central issue here about the availability of the protection of rights holders and performers' rights in the United Kingdom being part of a reciprocal process for the protection of UK performers in other countries. I am just sweeping the ground ahead of the noble Lord, Lord Foster of Bath, who may explain a bit more—or he may not, it is up to him.

3 pm

The point is that, for the United Kingdom, this is an important and very valuable protection. We have a terrific creative industries sector and, in those markets, the CPTPP can be terrifically important to us. I mentioned my interest in Japan before—you only have to begin to assess the relationship between our creative sectors and those in Japan to realise the importance of this trade and, indeed, of protecting the rights of performers.

This is a question of reciprocal right. The legislative structure on this is the Copyright, Designs and Patents Act 1988, which was, in this respect, principally amended by the Intellectual Property Act 2014. The definition of a "qualifying country" falls under Section 208 of the Copyright, Designs and Patents Act 1988. It provides

[Lord Lansley]
that a country designated as enjoying reciprocal protection effectively becomes a qualifying country. That is an important Order in Council. Likewise, an Order in Council under Section 206 can amend that definition

"so as to add a country which is not a party to the Rome Convention".

From 1961, that was the convention under which signatories afforded what were, in effect, common standards regarding protection for performers' rights in the countries that were signatories to that convention.

My only question is a substantive one: would it not be better for this important secondary legislation—these orders—to be made following consultation? One set is about defining what has reciprocal protection, the other is about extending the definition of a qualifying country. They may overlap or use either route in relation to CPTPP countries but, for our purposes, it is not just about CPTPP. This goes further and wider. It changes the legislation not simply to add the CPTPP but to enable secondary legislation to come forward.

We have previously debated primary legislation that gives the Government powers in future when they have free trade agreements to incorporate the provisions of those into domestic legislation by statutory instrument. That must be the right way forward. We are still building this practice up since our acquisition of trade policy responsibilities, but it must be a better way of proceeding. If we do not do that, we will end up with these bits and pieces of legislation in primary legislation, imagining that we are debating the overall rationale of the treaty when, in fact, we are not. We will be amending legislation in detail when it could all be done by regulation and we, as a Parliament, could accept or not accept that regulation.

Lord Alton of Liverpool (CB): Can the noble Lord clarify that he would always want that done under the affirmative procedure so that there could be a debate in the House on secondary legislation? I agree with him on the principle that we do not want bits and pieces of primary legislation, but there needs to be some ability to discuss secondary legislation, where appropriate.

Lord Lansley (Con): Some of them are under negative procedures. It is a judgment, not least in this House as our Delegated Powers Committee will advise us on what judgments to make. I would not endorse a blanket affirmative procedure; it must be based on the relative significance of the decisions to be made. Just because something is laid under the negative procedure does not mean that it cannot be prayed against or objected to, but that must rest with the committee.

There is nothing in the current legislation requiring any consultation with the representatives of rights holders in this country before the definition of a qualifying country is extended. I think it would be right for that to be the case; I suspect the representatives of rights holders would welcome it. In giving the Government this wider power, this is a good moment to add this carefully constructed consultation requirement before they bring an order forward. I beg to move.

Lord Foster of Bath (LD): My Lords, the noble Lord, Lord Lansley, suggests that I should go into great detail explaining the whole issue of performers' rights. I will disappoint him and other Members of the Committee because I am sure that those with an interest in it know that, basically, it is about performers and, in some cases, record label owners and so on receiving appropriate payment for their performances that take place in another country. It seems absolute common sense that if we do a deal with country X, we arrange it so that if our performers perform there we get payment and vice versa. Reciprocity seems pretty fundamental.

I have produced an amendment which says that in this legislation we ought simply to say that the reciprocal arrangements are with CPTPP member countries. Having raised real concerns about our failure during negotiations to make any progress on a number of intellectual property issues or to provide some of the support that our creative industries were seeking, I nevertheless welcome that this is part of the treaty. However, the question remains whether what I am seeking—a simple reciprocity agreement—is happening. The truth is that it is not.

I am enormously grateful to the Minister, who, after I raised these issues in basic terms as I have just done, wrote to me to explain the situation. I hope he will not mind but, to save him repeating it in his speech, I will read a little of what he wrote to me:

"The changes the Bill makes are necessary for the UK to accede to CPTPP and will expand the basis on which foreign performers can qualify for rights in UK law. In addition to the Bill, the Government will be making accompanying secondary legislation under existing powers"

and various other things to make sure that it all happens. That is fine, but he went on:

"The changes in the Bill will apply not only to performers from CPTPP countries but also those with a connection to other countries that are party to relevant treaties relating to performers' rights to which the UK is also party. This is necessary to comply with the UK's national treatment and most favoured nation obligations in those treaties".

He is saying that if we do something with CPTPP countries, we would have to take into account our other treaty obligations and the impact it would have elsewhere. He adds:

"Beyond these changes, however, the UK has some flexibility under its international obligations around how it provides certain rights to foreign nationals, in particular the right of performers to receive equitable remuneration (i.e. a share of the royalties) when their performances are broadcast or played in public".

In other words, what we have in the legislation at the moment, as I understand it, are changes that mean that we take account of what is going to happen in relation to reciprocal arrangements with CPTPP member countries as well as a stack of other changes that will take place, affecting our relationship with other countries, with some possible variation in how we deal with them. I absolutely understand that it would make life very easy for the Government to sweep these things up all at once, but it leaves us totally in the dark on exactly who we are dealing with and what the implications are, particularly for the music industry. The music industry is extremely concerned about this. It has told me that it has had discussions with the Minister and officials, that it got the information about all this at very short notice, and that it was unable to make any progress with getting the Minister to see things differently.

Its argument, and that which I would make—it is exactly the same as that made by the noble Lord, Lord Lansley—is as follows. If consequential changes are necessary in relation to countries beyond those that are members of the CPTPP, there is plenty of time between now and accession—we debated this earlier and all accept it is nine months away or possibly more—for the IPO to consult on the other issues referred to in the Minister's letter and for us then to have an opportunity to debate their implications before they are brought in. The legislative arrangements to do that are very clear.

I am deeply concerned that these proposals are coming from the IPO, which in many respects does very good work but sometimes runs ahead of things, as it did with its proposals for text and data mining, for example. They came as a huge shock, were massively opposed and were eventually withdrawn and have not gone ahead—I am grateful to the Government for doing that. I do not want a repetition of that, so I hope it is possible for the Minister to accept an amendment that says, "For the time being, let's concentrate on reciprocal arrangements with CPTPP member countries but, separately, have consultation on all the other things that the Minister wants to achieve so we can have an opportunity after the consultation to know what the impact will be, and then we can make a decision".

I want to see that information before I decide whether those changes are right. The Minister may already have seen some information, because the one bit of his letter that I did not read out suggests that the department has already come to a conclusion. It states, at the end:

"As such, we expect the direct impacts of the measures … on UK parties to be small".

I do not know whether that is true. I do not know what the implications are—nor, I think, do other Members of the Committee. The Minister may have a response that reassures me that we can go ahead in the way that the Government propose, but, given the lack of consultation we have had to date on those other issues, it would be helpful to proceed in the ways that either I or the noble Lord, Lord Lansley, have proposed—both achieve the same end.

Lord McNicol of West Kilbride (Lab): My Lords, I have Amendment 10 in this group. It is a short, probing amendment, and I have a few questions on it for the Minister. Again, it touches on performers' rights. Clause 5(5) refers to

"an act done … before the commencement date".

It is specifically about acts that have taken place in the past. My questions for the Minister are detailed, so I am more than happy for him to write to me, because I do not think this will make it through to Report.

Are there any practical impacts on the performers, and, if so, what are they? Does this date back indefinitely or is there a timeframe or time limit for when the performance act took place? Finally, is there anything that performers need to do to protect themselves with the CPTPP being put in place, or any guidance on it? Again, I am happy to support the amendments in the names of the noble Lords, Lord Lansley and Lord Foster, but I am seeking some clarification about performers' historic acts.

3.15 pm

Lord Johnson of Lainston (Con): I again thank noble Lords for their input. The noble Lord, Lord Purvis, referred to my declaration of interests and asked about my interests in Malaysia. I do not have any interests in Malaysia, but I have had interests there, which serve to highlight the points I tried to make about trade. My interests are very clearly listed on the Lords' register. I have small shares in fund management businesses but, as I said, I do not believe there is any conflict relating to this debate. I am always very cautious in that area, so I like to make everything as transparent as possible. I apologise for not making my declarations at the beginning of the debate.

I will now cover the important points. It is important to reaffirm that, as I committed to at Second Reading, the Intellectual Property Office will undergo a full consultation and report early next year on the effects these changes will have on artists and the industry itself in the United Kingdom.

Lord Foster of Bath (LD): I am sorry, but although it will report early next year, that will be after we have concluded all our deliberations on the Bill.

Lord Johnson of Lainston (Con): That is true of the House of Lords process, but I assume that, by then, the Bill will be in the other place, so there will be an opportunity to reference the consultation. My point is that the consultation will not have an effect on the treaty in the sense that we are able to take ameliorative action as a nation. I am grateful to the noble Lord for raising this, but it is not necessary to make amendments to the CPTPP Bill. We want to take time to decide the best course of action relating to how artists are compensated for their works being broadcast on broadcast media.

I am very comfortable with the principles around the consultation process, and I hope that noble Lords will be reassured that I have taken a significant personal interest in ensuring that we get into this debate with all the details that it presents. It is not necessarily as straightforward as it may appear. I admit to coming to this at First Reading and thinking, "This seems an extremely reasonable affair; shouldn't all artists receive 50% of their broadcast rights?" Further investigation shows that the situation is much more complicated, with different artists having different concepts of rights, particularly in America, which has the largest market in relation to this, and certain revenues being able to be captured and retained in the UK, rather than repatriated, and so on. A very relevant point was raised to do with reciprocity.

If I may, I will explain to noble Lords, who know more about these subjects than I do, that joining CPTPP fundamentally changes an important principle in how we assess artists' rights. The copyright Act extends rights to performers who are nationals of or who give a performance in a "qualifying country", the principle being that you will qualify for the protections if you are a British citizen or if you perform—as I am sure the noble Lord, Lord Foster, regularly does—your musical extravaganzas in the United Kingdom or in countries that are specifically linked via the Rome convention, for example. The secondary legislation to

[Lord Johnson of Lainston]
the CPTPP will change this. It requires that we introduce a new basis of qualification which is linked to where the music is first published. To qualify, you do not have to be either a citizen of a CPTPP country or doing the performance in a CPTPP country, so long as it is first published there. There are grace periods around that too.

It is not as simple as saying that artists' remuneration and royalty payments are extended to everyone in the world, because that is not the case. For example, a US citizen giving an original performance in the US and registering it there would not qualify if it was then broadcast on UK media. It is important to understand that there are some nuances. I give way to the noble Lord, Lord Foster, if he has a technical point.

Lord Foster of Bath (LD): I was not going to intervene, although I was tempted. The Minister is 100% right that this is incredibly complicated. There is the issue of a UK session musician who performs on an American record that is then first performed elsewhere. The complications are enormous. The problem is that the proposed changes also have enormous potential implications, none of which we have had the opportunity to debate or fully understand the impact of on the UK music industry, which is confused about this. All I am asking the Minister to do is accept that there is something incredibly complicated, but it can and should be dealt with separately.

Lord Johnson of Lainston (Con): I am grateful to the noble Lord for his understanding of the complexity of this. I hope I have been able to explain to noble Lords the different principles in what we currently look to in our copyright Act and what we are signing up to in the CPTPP. It is certainly navigable. Regardless of accession to the CPTPP, it is already complicated, and there are specific agencies to make sure that these royalties are properly collected and stored.

I am reluctant to accept these amendments today and ask noble Lords who have proposed them to withdraw them, but I am very comfortable with having further discussions. It would be helpful for us to have a good discussion with the IPO so that people feel comfortable that the consultation is going in the right direction and that the right levels of input are being prescribed. The tertiary changes that we may wish to make to protect our music industry and artists would not necessarily be linked to this trade Bill, but they are important.

I am glad that I have managed to highlight and explain the new approach on who is eligible for these remuneration rights, because I think in the first instance it was assumed that everyone would be. That is not the case. It is important to differentiate that. We are signing up to a new approach in the CPTPP and this clearly forms part of our treaty obligations. It is very relevant that we debate that in some depth.

The noble Lord, Lord McNicol, raised a very good point in his amendment. I hope I can reassure him that this is not retrospective, but it would make sense for performances undertaken before the date to qualify. However, you would not be paid royalties for qualifying performances that were broadcast before the date. Otherwise, everyone would claim for past performances over the 70 years that IP goes back to—that would be totally impractical and inappropriate and is not what we are suggesting at all. Our legal advice is clear that the cut-off date is the day on which this comes into force. Anything following that point would qualify. Historic performances are clearly part of the IP record, but you would not receive royalties for anything from before that point. I hope that reassures noble Lords.

I hope I have covered the points raised. I am very grateful for noble Lords' input on this important, sensitive and complex area. As is often the case in dealing with noble Lords in this Room, we are talking not about party-political or even political issues but issues of detail that have great ramifications. I see that the noble Lord, Lord Lansley, is keen to intervene as I may not have covered his points. The order of this is that the first statutory instrument gives the Secretary of State the power to make the changes, after which there is the consultation, and then the second instrument makes the changes. I hope that helps answer his initial point on the order of activity.

Lord Lansley (Con): My noble friend has referred very well to all the issues relating to the definition of a qualifying performance, but my amendment relates narrowly and specifically not to subsection (2) but to subsection (3). It concerns the question of a qualifying country not simply in relation to the CPTPP and takes a power to make Orders in Council to extend the definition of "qualifying country" in future—not just to CPTPP countries but, potentially, beyond. My noble friend says that the Secretary of State can publish a draft and then consult on it. They can do that, but there is nothing in the legislation to say that they should. I would like to be sure. If my noble friend is saying that such a consultation must take place, I am not sure where it is clear that it must.

Lord Johnson of Lainston (Con): We have not legislated for a consultation—there is no mention of that in the Bill—but we made such an undertaking at Second Reading. It is part of the process and we are very aware of the need to consult.

Lord Lansley (Con): Is that an undertaking always to consult before making an order under Sections 206 or 208 of the Copyright, Designs and Patents Act?

Lord Johnson of Lainston (Con): No, I am sorry—it is not an undertaking to consult on the artist performance rights every time changes may be made to the countries that become applicable.

Lord Lansley (Con): Just to be clear, what my noble friend has said may satisfy the noble Lord, Lord Foster of Bath—is that "Bath" with a short or a long "a"?

Lord Foster of Bath (LD): It is "Bath" with a short "a".

Lord Lansley (Con): Try to read that one in *Hansard*. However, my noble friend has not given me the assurance that I am looking for in the changes to the definition of a qualifying country.

Lord Johnson of Lainston (Con): I am grateful to the noble Lord. I am very happy to have conversations about this. Clearly, these FTAs make it difficult, if we are to comply with them, to have various and significant amendments to them. However, I am reassured by my officials that, in making significant changes to "qualifying countries", we would make sure that there was an appropriate level of consultation. I am very sensitive about making great promises from the Dispatch Box because I always find myself getting into trouble later, but I hope that—

Lord McNicol of West Kilbride (Lab): No, I think it is good. Carry on.

Lord Johnson of Lainston (Con): The noble Lord, Lord McNicol, would like me to make off-the-cuff commitments on behalf of the Government. It would be only logical to assume that there would be a degree of consultation in the same way that we are effecting one in this instance but, since I cannot give a firm commitment, I am very comfortable to come back to my noble friend between now and Report.

Lord Lansley (Con): That reassurance affords me the opportunity to beg leave to withdraw my amendment.

Amendment 9 withdrawn.

Amendment 10 not moved.

Clause 5 agreed.

Amendment 11 not moved.

Committee adjourned at 3.28 pm.