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PARLIAMENTARY DEBATES  
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# HOUSE OF LORDS

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The first time a Member speaks to a new piece of parliamentary business, the following abbreviations are used to show their party affiliation:

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

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# House of Lords

Tuesday 17 July 2018

2.30 pm

Prayers—read by the Lord Bishop of Southwark.

## Introduction: Baroness Bull

2.37 pm

*Deborah Clare Bull, CBE, having been created Baroness Bull, of Aldwych in the City of Westminster, was introduced and took the oath, supported by Baroness D'Souza and Lord Hall of Birkenhead, and signed an undertaking to abide by the Code of Conduct.*

## Death of a Former Member: Lord Thomas of Macclesfield

*Announcement*

2.42 pm

**The Lord Speaker (Lord Fowler):** My Lords, I regret to inform the House of the death of the noble Lord, Lord Thomas of Macclesfield, on 1 July. On behalf of the House, I extend our condolences to the noble Lord's family and friends.

## Nigeria: Fulani Herdsmen and Boko Haram

*Question*

2.43 pm

*Asked by Baroness Cox*

To ask Her Majesty's Government what assessment they have made of recent developments in Nigeria, including violence by the Fulani herdsmen and Boko Haram.

**Baroness Goldie (Con):** My Lords, we remain concerned by clashes involving pastoralists and farmers. The root causes are complex, including access to land, grazing routes, and water, exacerbated by population growth and insecurity. We have raised our concerns at federal and state government levels. Urgent action is needed by the Nigerian authorities to prevent further loss of life. We remain committed to supporting Nigeria's fight against Boko Haram, and we are providing a substantial package of military intelligence and humanitarian assistance.

**Baroness Cox (CB):** My Lords, I thank the Minister for her reply. Is she aware that last time I was in Nigeria I visited four villages that had been destroyed by Fulani and stood in the ruins of the pastor's house, where he had been slaughtered? Given the escalation of attacks on Christian communities in which many hundreds have been killed recently and that the Nigerian House of Representatives has declared this to be genocide, does the Minister agree that while the causes of such violence are complex, there is a strong ideological dimension to the Fulani attacks? Will Her Majesty's Government make representations to the Government

of Nigeria to take more effective action to protect all its citizens and call to account all those who have been perpetrating atrocities?

**Baroness Goldie:** We are deeply concerned by the recurrent clashes, and we welcome President Buhari's commitment to assist affected communities to bring perpetrators to justice and examine long-term solutions. Urgent action is needed to prevent further loss of life. The root causes of these clashes are complex. Our assessment is that they are not religiously motivated. However, they are exacerbated by deep-rooted ethnic tensions.

**The Archbishop of Canterbury:** My Lords, I am sure that the Minister shares my deep concern about the violent attacks on Christians. For instance, the compound of my colleague the Archbishop of Jos was attacked a couple of weeks back, and one of his friends was killed. The Minister has rightly said how complex the situation is, but can she answer more specifically on what assistance the UK Government can give in the short term to strengthen the Government of Nigeria in their role of enforcing security and local mediation; in the medium term, to ensure reconciliation, which will enable the lives and economies of farmers and herders to be protected; and, in the long term, actively and tangibly to support regional efforts to combat the effects of climate change—the development of desertification, which is exacerbating ancient rivalries?

**Baroness Goldie:** I am very concerned about what the most reverend Primate identifies and reports. In relation to violence, the UK has offered our assistance to the Government of Nigeria through the vice-president's office. We stand ready to support Nigerian-led initiatives. As for what else we can do, we are working closely with international partners. We have encouraged the EU and the United Nations Office for West Africa and the Sahel to extend their influence and develop sustainable solutions to the conflict, including through support to community conflict resolution initiatives, which we believe are essential. I reassure the most reverend Primate that we are considering options for how the UK can support reconciliation at local levels. We cannot ignore the fundamental causes of the violence, so we are reviewing HM Government's support for Nigeria in, for example, as the most reverend Primate identifies, tackling the effects of climate change.

**Lord Elton (Con):** Can my noble friend confirm that the Fulani herdsmen have destroyed 500 churches since 2001 and that in the first quarter of this year they have caused 1,061 deaths, mostly in attacks on Christians? In the current quarter, the death toll is so far 440. The most reverend Primate has hit the nail on the head: this is moving from genocide to "credocide".

**Baroness Goldie:** I totally agree with my noble friend that these clashes are having a devastating impact on lives and communities as well as being a major barrier to Nigeria's economic development, which does not help the people of Nigeria. As I indicated to the most reverend Primate, we are engaging with federal

[BARONESS GOLDIE]

and state government to encourage them to work with all parties to develop solutions that meet the needs of all the affected communities.

**Lord Chidgey (LD):** My Lords, yesterday the Nigerian Minister for Agriculture and Rural Development announced a plan for ending the crisis between farmers and Fulani herdsmen across Nigeria. Speaking to Nigerian postgraduate students at a university in Holland, he said that that President Muhammadu Buhari would urge state Governments to develop ranches with water and electricity to persuade the nomadic Fulani herdsmen to settle. This imaginative plan will need rigorous security management, yet only yesterday, again, Boko Haram apparently overran an army base in Yobe state, leaving hundreds of soldiers unaccounted for. What assistance are the UK Government considering to prevent terrorism thwarting this initiative?

**Baroness Goldie:** I thank the noble Lord for his question and also for outlining what may very well be a way forward. But as he rightly says, the activities of Boko Haram are risking and imperilling any progress that might be made. Let me assure him that the UK remains committed to supporting Nigeria and its neighbours in the fight against Boko Haram. We are providing a substantial package of military intelligence and humanitarian and development support to Nigeria. The objective in doing that is to try to do whatever we can to assist the Nigerian Government in resolving these very significant difficulties.

**Lord Alton of Liverpool (CB):** My Lords, given my noble friend's reference to the resolution of the Nigerian House of Representatives declaring events in Plateau State to be a genocide, how does the Minister respond to the respected former chief of staff of the Nigerian army and defence chief, Lieutenant General Danjuma, who said that the armed forces are "not neutral. They collude"—in, in his words—"ethnic cleansing"? Does she disagree with the Archbishop of Abuja, who says that the atrocities of the Fulani militia and Boko Haram mean that:

"The very survival of our nation is at stake"?

**Baroness Goldie:** In relation to the noble Lord's question about the Nigerian security services, we have made clear to the Nigerian authorities the importance of protecting civilians in conflict and detention. Any member of the Nigerian security services found to have been involved in human rights violations must be held accountable.

**Lord Collins of Highbury (Lab):** My Lords, the most reverend Primate outlined three stages to possible solutions to a very complex situation. We have raised the question before of how we build community solutions, especially when they are so complex. Have the Government thought of working with the Nigerian Government to institute more interfaith group work, so that the solutions embrace all sides of the community?

**Baroness Goldie:** I thank the noble Lord for that positive contribution. I am sure that his suggestion will be reflected upon.

## **Kashmir: Human Rights**

### *Question*

2.51 pm

*Asked by Lord Ahmed*

To ask Her Majesty's Government what assessment they have made of the United Nations Human Rights Office of the High Commissioner's first report on human rights in Kashmir.

**Baroness Goldie (Con):** My Lords, the Government have noted the concerns across Kashmir raised in the OHCHR report. We encourage all states to uphold their international human rights obligations. The UK's long-standing position is that it is for India and Pakistan to find a lasting political resolution to the situation in Kashmir, taking account of the wishes of the Kashmiri people. It is not for the UK to prescribe a solution or to act as a mediator.

**Lord Ahmed (Non-Affl):** I thank the Minister for her reply. The UN human rights commissioner and the Secretary-General have both called for an international, independent inquiry into human rights in Kashmir. Will Her Majesty's Government, as permanent members of the Security Council, support the Secretary-General and the UN on this? Secondly, as the Kashmir issue is unresolved, will Her Majesty's Government—as the former colonial power which gave independence to India and Pakistan—consider hosting a peace conference in London similar to that held for Zimbabwe-Rhodesia, to bring a final settlement to it?

**Baroness Goldie:** In my first Answer I indicated to the noble Lord what the long-standing position of the United Kingdom Government has been. We welcome the United Nations Secretary-General's comments of 12 July, in which he underlined the need for a political solution and encouraged dialogue between India and Pakistan. This is very much in line with what the UK Government have been seeking. We raise the issue of Kashmir, including human rights, with the Governments of India and Pakistan. On the noble Lord's second point, I have made clear the UK Government's position. We believe that it is for India and Pakistan, which are sovereign powers, to find a lasting political solution. We encourage both sides to maintain a positive dialogue and nurture good relations, but the pace of progress must be for them to determine.

**Lord Hussain (LD):** My Lords, the United Nations Human Rights Council has requested free access to both India and Pakistan to investigate these allegations of human rights abuses. We all know that India has refused to co-operate. Are Her Majesty's Government willing to take this matter to the United Nations Security Council, to ask for support to get the United Nations Human Rights Council access to both India and Pakistan to investigate these allegations?

**Baroness Goldie:** I reiterate that that is a matter for the two countries concerned. It is for India and Pakistan to determine to what extent they wish to have involvement

by the United Nations. The United Kingdom Government recognise that there are human rights concerns in India-administered Kashmir and in Pakistan-administered Kashmir, and we encourage all states to uphold their international human rights obligations. Any allegation of human rights abuse is concerning. It must be investigated thoroughly, promptly and transparently.

**Baroness Whitaker (Lab):** Will the Government now ratify the amendment to International Criminal Court jurisdiction to allow the prosecution of a member state which violates the UN charter in an act against another member state—thus, incidentally, enabling action against Russia for its use of Novichok?

**Baroness Goldie:** My understanding is that the noble Baroness's question is in relation to the International Criminal Court, and neither India nor Pakistan is a state party to the Rome statute of the International Criminal Court. Therefore, how such a matter would proceed is outwith the control of the UK.

**Baroness Sheehan (LD):** What assessment have the Government made of the root causes of the discontent fuelling protests in Indian-administered Kashmir, in particular the fact, as highlighted in a UNHCR report, of the shift in the demographic profile of protesters to include younger, more middle-class Kashmiris and more women than in previous protests?

**Baroness Goldie:** I am not sure that I have any specific information to respond in detail to the noble Baroness's question. I shall make inquiries, and if I can provide anything further, I undertake to write to her.

**Lord Collins of Highbury (Lab):** My Lords, obviously it is a matter for Pakistan and India to resolve their disputes; but obviously, the question of human rights is vital, and with human rights there is a need for the right to freedom of speech and to express yourself freely. Can the Minister tell us exactly what we are doing in making representations to ensure that freedom of speech and the ability to express yourself is readily available in these disputed territories?

**Baroness Goldie:** The noble Lord puts his finger on something extremely important. In all our diplomatic communications we endeavour to relay what our concerns are and what we would urge the two countries to do to try to mitigate problems and resolve differences, which includes continuing to encourage positive dialogue between India and Pakistan. Frankly, dialogue remains the most fundamental confidence-builder, and we hope that both India and Pakistan would recognise that. The noble Lord may be aware that under-the-radar dialogue exchanges are going on. I think that those are very healthy and positive and we want to see them continue. I reiterate, however, that it is ultimately not for the United Kingdom Government to go barging in, telling two sovereign countries what to do.

## Railways: Timetables

### Question

2.57 pm

Asked by **Lord Bradshaw**

To ask Her Majesty's Government what progress has been made in the inquiry by the Office of Rail and Road, led by Stephen Glaister, into the implementation of the new railway timetables on 20 May.

**The Parliamentary Under-Secretary of State, Department for Transport (Baroness Sugg) (Con):** My Lords, the Office of Rail and Road inquiry began its work on 13 June and is proceeding at pace. The inquiry is in its evidence-gathering phase, collecting evidence from passenger representative groups, industry and the Government about the preparations for the timetabling change, the key decisions that were made, and the impact on passengers. Initial findings will be published in September, with final reports at the end of the year.

**Lord Bradshaw (LD):** I thank the noble Baroness for that reply. The introduction of the new timetables in May was the result of very many years' work. The rolling stock had to be ordered 12 years ago, and the timetables had to be approved by the Office of Rail Regulation in the course of that action. Can I be assured that Professor Glaister will inquire thoroughly into what part the Office of Rail Regulation played in the delays, and what part was played by the department in the delay in ordering rolling stock in this case? Will the noble Baroness also explain whether any of the four assessors who have been appointed have any experience of running a mixed-traffic railway?

**Baroness Sugg:** My Lords, I can certainly give the noble Lord the assurance that the inquiry will cover the role of both the department and the ORR itself. The inquiry's terms of reference include both examination of the department's approach and the role of the ORR as the independent regulator of Network Rail. The Department for Transport is of course fully co-operating with the inquiry, and we look forward to receiving its results. The panel indeed has members with experience of the rail industry. Michael Beswick had a full career in British Rail, and Mike Brown is the commissioner of Transport for London.

**Lord Naseby (Con):** My Lords, while an inquiry is enormously welcome, will my noble friend recognise a practical issue on the Govia Thameslink Peterborough line, which I try to use? Even at the new, third attempt yesterday, the prime-time service was cancelled as early workers tried to get into the City of London. Surely the time has come for Her Majesty's Government to find someone to liaise closely with Govia management, to make sure that it at least gets things moving properly on its next attempt. I very much hope it will be fired from the contract in any case.

**Baroness Sugg:** My Lords, there have been far too many cancellations at Peterborough and across the country, creating long gaps between services. We have been clear with GTR that the interim timetable, which began on Sunday, must provide passengers on the line with the service they deserve and reduce gaps in services to acceptable levels. For Peterborough specifically, there will be half-hourly trains off-peak and up to four trains per hour during peak hours. New services will also be added as soon as possible.

**The Lord Bishop of Southwark:** Noble Lords should be aware that my diocese extends across most of south London and east Surrey. Since the availability of employment and the affordability of housing are at an increasing distance from each other for a great and growing proportion of the population, people need a rail system of adequate capacity, affordable to their means, which is utterly reliable and efficient in its running. Does the Minister accept that the current arrangements do not deliver these criteria? Is there a proper sense of urgency about addressing this matter?

**Baroness Sugg:** My Lords, I certainly agree that passengers expect an adequate, affordable service with capacity, and we are working towards that. A record £47.9 billion is being invested in our railways over the next control period, which should bring improvements to connectivity across the country.

**Lord Blunkett (Lab):** My Lords, here is a bit of a googy but the Minister will be well up for it. Given that the rationale for the substantial worsening of running times from Sheffield to St Pancras and intermediate stations was the large increase in train availability for London and the south-east, will she ask the inquiry now to restore the running times from Sheffield to London so that we can have a service back?

**Baroness Sugg:** My Lords, I am not sure I recognise that as the reason for the issues in Sheffield. We are investing in the biggest upgrade of the line since it was completed in 1870. We are working closely with Network Rail on the upgrade and we expect to deliver it in 2020, which will improve train times. We are working continually with the train operating company to ensure that the new timetable implementation is delivered successfully.

**Baroness Randerson (LD):** My Lords, 200 services were cancelled by Thameslink and Great Northern yesterday, so the first day of the third version of the timetable was predictably bad, with all the same delays, cancellations and misinformation. It is time to give passengers a stronger voice. Will the Minister agree that all boards must have a passenger representative, and will the Government hold these powerful companies to account, forcing them to pay proper compensation to all passengers, not just those with season tickets?

**Baroness Sugg:** My Lords, sadly we have seen some interruption in the interim timetables delivered on Sunday. However, we are seeing daily improvements and it is worth remembering that, even with the interim timetables, there are 100 more services per day than before.

There will be 400 more services per day once we get back up to our planned level. I assure the noble Baroness that we will absolutely hold the train operating companies to account. As well as the independent inquiry, we are looking at a hard review into each of the franchises to ensure that they have behaved appropriately. If they have not, we will certainly take action.

**Lord Snape (Lab):** My Lords, will the Minister accept that the 10% reduction in timetabling expenditure demanded by Professor Glaister would itself have an impact on the chaos that we are seeing? Is she aware that the view in the railway industry is that this inquiry is designed to cover up the mistakes of Ministers, with blame then of course allocated to the train operating company rather than to the Secretary of State? On that point, fresh from the chaos that was the Ministry of Justice, Mr Grayling now presides over a wrecking ball to the national timetable. Does the Minister think he is incompetent or just unlucky?

**Baroness Sugg:** My Lords, I am afraid that I have not seen that 10% timetabling figure but I will certainly go back to the department to follow that up. I assure the noble Lord that this inquiry is absolutely not a cover-up. As I said, the expert panel will have particular regard to whether the ORR's role as regulator has been properly assessed by the inquiry. The inquiry will look very carefully at the role of the Department for Transport in planning the enhancements and at the approach to planning general network changes.

**Lord Kirkhope of Harrogate (Con):** My Lords, would it not be a good idea if those who ran our railways were to reconsider the excellent example of the original *Bradshaw's* guide to the railways for a timetable?

**Baroness Sugg:** My Lords, I must admit that I have not read that guide but I look forward to reading it over the Summer Recess.

**Lord West of Spithead (Lab):** My Lords, I have asked this question before but it was not answered. Because the French own it, have the Government had any discussions with the French Government about the appalling service in the Southern region?

**Baroness Sugg:** My Lords, we work carefully with all the train operating companies. I do not believe that we have discussed that detail with the French Government, but if that is not the case I will certainly write to the noble Lord.

## Nazanin Zaghari-Ratcliffe Question

3.06 pm

Asked by **Baroness Afshar**

To ask Her Majesty's Government how they will ensure that following the change in Foreign Secretary the case of Nazanin Zaghari-Ratcliffe will continue to be prioritised by the Foreign and Commonwealth Office.

**Baroness Goldie (Con):** My Lords, we remain deeply concerned for all our dual nationality detainees in Iran, including Mrs Zaghari-Ratcliffe, and are doing

everything we can for them, including trying to secure access. We regularly raise all these cases at the highest levels within the Iranian Government and we will continue to do so in a way that we judge is in their best interests. The Foreign Secretary is keen to meet the Ratcliffe family and hopes to do so shortly.

**Baroness Afshar (CB):** I thank the noble Baroness for her remarks. As an Iranian-born Member of your Lordships' House, I declare a personal interest in this Question. As the Government are aware, all the UN special rapporteurs on human rights have already condemned Iran's action and asked for the end of the arbitrary detention of Mrs Zaghari-Ratcliffe, who has committed no crime other than wanting to go to see her parents—something that I cannot do because I would end up there. I do not know whether the Government could help me at that point. Would this critical time, when Iran needs all the help it can get from all its allies, perhaps be a good time for the Government to encourage the Iranian Government to release Nazanin Zaghari-Ratcliffe as an act of good will and allow her to come back to continue her life in the UK?

**Baroness Goldie:** I thank the noble Baroness for her question and pay tribute to her particularly detailed knowledge of both Iran and the circumstances of this issue. As she is probably aware, the technical difficulty is that Iranians do not recognise the UK as having any right of access, on the basis that they do not consider dual nationality detainees to be British nationals. Anyone holding Iranian citizenship is considered to be only Iranian, and under international law Iran is not obliged to grant consular access for dual nationals. We are pursuing every avenue that we can in relation to all the dual nationality detainees, including Mrs Zaghari-Ratcliffe, and are doing so in the best way possible. We raise all our cases at every level and every opportunity. The Prime Minister raised all our consular cases in a telephone call with President Rouhani on 13 May. Most recently, on 6 July, the Minister for the Middle East raised our cases in a meeting with the Iranian Deputy Foreign Minister, Mr Araghchi. This is a very difficult situation for all our dual nationality detainees. We do the best we can to seek information and ensure that they have access to members of their family—in the case of Mrs Zaghari-Ratcliffe, her parents in Iran—and that their welfare is addressed. I am sure that the noble Baroness's plea will not be lost.

**Lord Garel-Jones (Con):** My Lords, can my noble friend the Minister tell the House whether there is a balance to be struck between doing everything possible behind the scenes to assist Mrs Zaghari-Ratcliffe and her family, as the Government are indeed doing, and refraining from any public comment that may inadvertently be counterproductive?

**Baroness Goldie:** I thank my noble friend for his particularly shrewd and perceptive observation. These are very difficult cases. For example, we know of other families of dual nationality detainees who have explicitly requested the UK Government not to engage publicly in representations and not to discuss their case at the

public level. That is why the United Kingdom Government make a judgment on how best to try to continue communication with Iran and with the Iranian Government. I am pleased to say that in this case, for example, our ambassador in Tehran was able to speak with Mrs Zaghari-Ratcliffe by telephone on both 20 May and 15 July this year. That is unusual but it was a very welcome development.

**Baroness Northover (LD):** My Lords, will the new Foreign Secretary agree to meet Nazanin's family immediately, given the greater danger that his predecessor placed her in? Will he grant Nazanin the diplomatic protection to which she is legally entitled—a decision that was left on the previous Foreign Secretary's desk when he resigned?

**Baroness Goldie:** As I indicated, last week, the Foreign Secretary told the Ratcliffe family that he is keen to meet them, and he hopes to do that shortly. We have to leave that with the Ratcliffe family and the Foreign Secretary. On the issue of diplomatic protection, Redress, on behalf of Mr Ratcliffe, formally requested a decision on a claim for diplomatic protection in May this year. The Foreign Secretary will be provided with all the relevant information and advice as a matter of urgency, and I understand that he is keen to take a decision as soon as possible.

**Lord Tomlinson (Lab):** Does the Minister agree that Mrs Zaghari-Ratcliffe was ill served by the previous Foreign Secretary not reading his briefs properly and therefore worsening her position in the courts? I hope that the new Foreign Secretary will improve on that performance. Was the Minister as puzzled as I was last night when, while watching "Channel 4 News", I saw the ex-Foreign Secretary pull up at Carlton Gardens, in what appeared to be a public car, and use the facilities that are there for the Foreign Secretary and not for ex-Foreign Secretaries?

**Baroness Goldie:** I was so busy last night preparing for my marathon event at the Dispatch Box today that I was not watching "Channel 4 News" last night: I was bent over my desk trying to master my briefs.

Everyone wants to see progress made with our dual nationality detainees. No one is pretending that this is an easy situation—it is very far from it. There is welcome progress because of the approach that the UK Government have been adopting, as evidenced by the degree of contact that is now possible: for example, I understand that Mrs Zaghari-Ratcliffe is able to phone her husband a couple of times a week and see her daughter and, as I said, her parents. At the end of the day, Iran is a sovereign country and it has an independent court system. We simply do our best to ensure that the detainees are being properly treated in compliance with international obligations on Iran. We certainly seek and would welcome more specific information about the charges against the detainees where that is within the criminal milieu of Iran. The United Kingdom Government are doing their very best to keep channels of communication open to ensure that progress is made. The point made by my noble friend Lord Garel-Jones is pertinent.

## Taxation (Cross-border Trade) Bill

*First Reading*

3.15 pm

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

## Home Education (Duty of Local Authorities) Bill [HL]

*Report*

3.15 pm

*Report received.*

## Registration of Marriage Bill [HL]

*Report*

3.15 pm

*Report received.*

## Parental Bereavement (Leave and Pay) Bill

*Order of Commitment Discharged*

3.15 pm

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

*Motion agreed.*

## Electoral Commission

*Statement*

3.16 pm

**Lord Young of Cookham (Con):** My Lords, with the leave of the House, I would like to repeat an Answer to an Urgent Question given in the other place earlier today. The Answer is as follows:

“I am proud to say that the UK has a clear and robust electoral system, and we should all be proud of the democracy in which we live and work. I would like to place on record my thanks to all those involved in the electoral community who work hard at every poll to deliver it within the law, such that we can be proud of our democracy.

The Electoral Commission is the independent body that oversees the conduct of elections and referendums and regulates political finance. The commission reports regularly on the running of elections and referendums, and conducts thorough investigations into allegations that rules have been breached.

Electoral law exists to ensure fair campaigning, and the Electoral Commission has determined that those rules have been broken. Both Vote Leave and BeLeave have been fined and referred to the police. It would not be appropriate for the Government to comment on ongoing police investigations.

That electoral rules have been breached is rightly a cause for concern, but that does not mean that the rules themselves were flawed. The Government will continue to work closely with the Electoral Commission, along with many other stakeholders in the electoral system, to protect the integrity, security and effectiveness of referendums and elections.

Let me make it clear for the record that we will continue to implement the referendum’s result and to make a success of it”.

My Lords, that concludes the Statement.

3.18 pm

**Lord Kennedy of Southwark (Lab Co-op):** My Lords, on 28 June and on previous occasions in this House, the noble Lord, Lord Young of Cookham, agreed with me that our legislation on elections and referendums was not fit for purpose. But today the Minister has repeated the Answer given in the other place by the Minister for the Constitution. In the fourth paragraph, he said:

“That electoral rules have been breached is rightly a cause for concern, but that does not mean that the rules themselves were flawed”.

Are the Minister and I correct—and I think we are—or is his honourable friend the Member for Norwich North in the other place correct? We cannot both be.

**Lord Young of Cookham:** On several occasions, I have repeated a statement that my party made just over a year ago:

“There is a broad consensus that election law is fragmented, confused and unclear, with two different sets of legislation and poor guidance from the Electoral Commission”.—[*Official Report*, 7/6/18; col. 1403.]

As the noble Lord knows, a number of inquiries are under way that I do think we need to wait for before we decide how best to legislate. I am aware of the strong views of the Electoral Commission that the current level of sanctions is too low.

There are the DCMS inquiry into fake news, which we need to wait for, and the Intelligence and Security Committee’s inquiry into the activity of the Russians in the referendum and recent elections. There are ongoing investigations by the Electoral Commission into the referendum, and a court case is still pending. We have just had a very interesting report on referendums from UCL. I am not in favour of delay, but it makes sense to have the reports of the various inquiries that I have just referred to before we decide how best to proceed. I make it clear that the Government take extremely seriously what has been reported in the investigation out today.

**Lord Tyler (LD):** My Lords, I attended the exchanges earlier in the other place. Can I express the hope that our Minister will be rather more forthcoming than his colleague there? She kept referring to rules having been breached. These are not the rules of a game; this is the law of the land. This was a case of knowingly breaking the law—hence the reference to the police. Did the Minister note that no fewer than five very senior Conservative MPs urged the Government to



recognise the implications for the integrity of the outcome of the 2016 referendum? If this was an election result, it could have caused that result to be declared invalid. Given the possibility—or perhaps now even the likelihood as the days go by—of a People’s Vote poll to make a choice about the outcome of the Brexit negotiations, do the Government accept the extreme urgency of the need for the reforms to which he has just referred? How and when do the Government propose to introduce legislation? If he is going to tell us again that there is some difficulty about that because of Brexit legislation, perhaps I may invite him to undertake an examination of my Private Member’s Bill to see if that would offer an opportunity.

**Lord Young of Cookham:** I am grateful to the noble Lord for his repeated offer to use his Private Member’s Bill as a vehicle for necessary legislation, and I look forward to debating the remaining stages of his Bill in due course. I, too, followed the exchanges in the other place and I am grateful that I am answering questions here and not elsewhere. On the question of legislation, as I have said, we are currently considering whether the Electoral Commission should have more powers; we know that the commission wants the maximum fine to be increased from £20,000 to a higher level.

On the question of the referendum, I can only repeat what my honourable friend said in the other place, which is that the Government believe that the outcome of the referendum should be respected. Were there to be any more referendums, each one would require specific legislation, and there would be an opportunity to amend the legislation. I think that I am right in saying that the legislation for the EU referendum was amended in the light of a report from the Constitution Committee in your Lordships’ House, which recommended that the law be tightened on acting in concert. On the question of more general legislation, as I have said, I am not seeking to delay, but some key issues are under investigation by committees of this House and of another place. It makes sense to await the outcome of those before we decide how best to legislate.

**Lord Foulkes of Cumnock (Lab):** My Lords, on all these reports, we now have the report of the Electoral Commission, which found that the Leave campaign broke the law; we have very strong evidence of Russian involvement; and there are reports of other investigations which have been carried out into the veracity of the referendum. Yet the Minister says that the Government are still willing to accept the result. What would it take for the Government to think again and recognise that this was a flawed referendum?

**Lord Young of Cookham:** The Government do not believe that the referendum was flawed and I cannot envisage the circumstances in which they would come to a different view. On the exchanges in the other place, I did not hear a unanimous request to rerun the referendum: rather, the discussion focused on whether the laws we have at the moment should be tightened and changed were we to have any more referendums.

**Lord Mackay of Clashfern (Con):** My Lords, my noble friend and his counterpart on the Opposition Benches were talking about reform of the electoral law. What the Minister said in the Commons in the quotation that I heard just now was that the mere fact that a regulation has been breached does not show that the regulation is flawed. Those two sentences stand together perfectly well.

**Lord Young of Cookham:** I am grateful to my noble and learned friend. As my honourable friend in the other place said, that electoral rules have been breached is rightly a cause for concern, but that does not mean that the rules themselves are flawed.

**Lord Griffiths of Burry Port (Lab):** My Lords, when the mayor of Tower Hamlets was elected because regulations had been breached, it was necessary to rerun the election. Can we be told the substantial difference between a case like that and the case we are talking about now?

**Lord Young of Cookham:** The question of elections of MPs or mayors has been raised before. The commission does not have the power to disqualify MPs if they are found to have overspent in an election campaign, and I imagine that the same would be true of mayors. However—and I think this answers the noble Lord’s question—the commission can refer cases to the police or the relevant public prosecutor and generally do so if cases involve an element of deliberate dishonesty. That is the distinction.

**Lord Strasburger (LD):** My Lords, the Vote Leave whistleblower, Shamir Sanni, is adamant that the cheating and overspending was common knowledge in Vote Leave—everyone knew. Let us look at the rogues gallery of people inside Vote Leave who must have known about the £500,000 deliberate overspend. Some of those on the committee were Steve Baker, Iain Duncan Smith, the noble Lord, Lord Forsyth—who is not in his place—Liam Fox, Chris Grayling, the noble Lord, Lord Lawson, who is also not in his place, Dominic Raab, Michael Gove and Boris Johnson. Does the Minister agree that the country is owed an apology from all those people for the dishonesty that took place on their watch and that those still in office should step down until the police investigation is complete?

**Lord Young of Cookham:** I refer the noble Lord to paragraph 1.13 of the Electoral Commission’s report: “No other person was under investigation by the Commission”.

**Lord Rooker (Lab):** Does the Minister think that there is the slightest chance of the BBC giving a fair and balanced report of the Electoral Commission’s report?

**Lord Young of Cookham:** I have not had time to listen to the BBC and its report on the Electoral Commission. As the noble Lord knows better than anyone else, if he believes that the BBC has been guilty of any bias, there are procedures for making the relevant complaint.

**Lord Wigley (PC):** Does the Minister accept that, in extremis, there can be circumstances in which the behaviour of a party in a referendum can distort the outcome of that referendum? In those circumstances, what redress is there?

**Lord Young of Cookham:** I refer the noble Lord to the reports of the Electoral Commission and UCL, which came out yesterday. They both say that they do not believe that the irregularities we have referred to would necessarily have affected the outcome of the referendum.

**Lord Hayward (Con):** In looking forward to changes in legislation, would my noble friend give serious consideration to real-time reporting of expenses? Nowadays, we face fast-moving election programmes and campaigns. In this case and in others, it appears that the legislation has not kept up with the processes that can be adopted and followed.

**Lord Young of Cookham:** That is a helpful suggestion. We should consult with the political parties to see how practical it is, but that suggestion was made in the exchanges in the other place. It is well worth looking at that to see in advance whether anyone is heading for an overspend.

**Lord Rennard (LD):** My Lords, if the referendum was not fundamentally flawed, why are the Government so reluctant to concede that there is now a very strong case for a judicial and public inquiry into the conduct of the 2016 referendum?

**Lord Young of Cookham:** It makes sense to complete the inquiries that are on the way. Other investigations into the referendum are still being conducted by the Electoral Commission. A court case on the issues we are talking about is pending. It would not be helpful to try to launch a public inquiry against that background.

## **Ivory Bill**

### *Second Reading*

3.28 pm

*Moved by Lord Gardiner of Kimble*

That the Bill be now read a second time.

**The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Gardiner of Kimble) (Con):** My Lords, I should declare at this juncture that I have a small number of ivory objects, which I was given many years ago and have no intention of selling.

The legislation has a vital purpose: this country will play its part in helping to save the elephant from extinction. We are showing leadership—the ban on the sale of elephant ivory objects of all ages, with only limited exemptions, will be the strongest in Europe and among the strongest in the world.

The numbers are stark. About 20,000 elephants are killed for their tusks every year—that is around 55 each day. To put these figures into context, since 2006, the total number of elephants in Africa has decreased by some 21%, with numbers of savannah elephants declining by 30%—equal to 144,000 elephants—between 2007 and 2014 alone.

The human cost is real too, with over 100 rangers dying in one year between July 2016 and 2017. UN reports recognise the link between wildlife and arms trafficking in central Africa, with illegal wildlife trade—IWT—helping to finance armed groups, including the Lord's Resistance Army. Environmental crime, which includes IWT, is the fifth most lucrative serious organised crime. IWT alone is worth up to £17 billion per annum, fuelling corruption and instability, and devastating animal populations.

That elephants now face the prospect of being wiped out by criminality and, I am afraid, by plain avarice, is simply unacceptable. But such a tragedy is not inevitable. We have an opportunity, and a duty, to be part of international efforts to change this course. In 2014, we hosted the London Conference on Illegal Wildlife Trade, where the UK secured ambitious agreements from more than 40 Governments and the EU to take urgent, co-ordinated action to combat IWT. I pay tribute to my noble friend Lord Hague of Richmond for his pivotal role in this.

Since then, an even clearer international consensus recognises that IWT is a global crisis in need of global solutions. In April this year, the 2018 G7 communiqué committed members,

“to working together to strengthen ... law enforcement and tackle associated corruption”,

and closing illegal demand markets, “including elephant ivory”.

We know that the illegal wildlife trade must be tackled by sustained action across many fronts. Indeed, the UK has committed £26 million on efforts to combat IWT, including supporting 61 projects around the world under the IWT Challenge Fund. We are training anti-poaching African park rangers and sharing Border Force expertise in key demand states, such as Vietnam. We are providing funding to Interpol and the International Consortium on Combating Wildlife Crime to support their global enforcement operations. We are supporting projects to provide alternative sources of income to local communities in key poaching areas, and to identify and disrupt illicit financial flows linked to IWT.

While this is indeed a global crisis, the effects are felt most acutely in some of the world's most vulnerable communities, particularly in Africa. IWT not only helps to drive corruption and undermine the rule of law, but has a crippling effect on nascent wildlife tourism and other opportunities for sustainable development.

African states cannot, and should not, be left to tackle IWT in isolation. They have called on the international community to help, and to recognise that this includes closing down markets which help to fuel poaching. In March this year, the Presidents of Botswana, Gabon and Uganda joined 29 other African elephant range states in signing a petition to urge the EU to close its ivory markets. The United States and

China have already closed theirs; Hong Kong and Taiwan, two critical demand markets, are in the process of doing so. All recognise that reducing demand is a critical part of a comprehensive response to the crisis.

The government consultation on ivory received over 70,000 individual responses, of which the overwhelming majority—some 88%—favoured an ivory ban. We have worked extensively with conservation NGOs, the arts and antiques sector, and the musician and museum sectors to help shape this Bill. Your Lordships will be aware that there are already restrictions on the trade in post-1990 ivory under the Convention on International Trade in Endangered Species—CITES. The EU has gone further in banning the export of raw ivory. We need to go further. Elephants are still being poached and killed for their ivory at unsustainable rates. Record quantities were illegally traded in 2016.

The UK has a world-renowned arts and antiques sector and one of the world's largest markets for antique ivory. Under existing legal restrictions, in the UK only items of, or containing, ivory which have been worked before 1947 can be sold without a permit. But it is extremely difficult to differentiate legal from illegal ivory, meaning that legal markets can be used to “launder” new ivory sourced from recently killed elephants. Indeed, UK Border Force has seized many ivory items that had been artificially aged, often through such crude but effective means as staining them with tea.

The UK is one of the largest suppliers of “legal” ivory items to the world's ivory markets. The majority of this goes to east Asia, where demand is the highest. According to TRAFFIC—the wildlife trade monitoring network founded by the International Union for Conservation of Nature and WWF—between 2005 and 2009 the number of ivory items exported from the UK to mainland China was 2,000. Between 2010 and 2014, that number had increased to about 11,000. In 2010 a UN Office on Drugs and Crime report concluded that,

“the trade in illicit ivory is only lucrative because there is a parallel licit supply, and ivory can be sold and used openly. Ivory would lose much of its marketability if buying it were unequivocally an illegal act, or if ownership of these status goods had to be concealed”.

This is not about casting judgment on those, including previous generations, who may have been ignorant of the destructive impact of the ivory trade, but it is a clear-sighted assessment of the facts as we find them: the rise in demand for ivory in east Asia; the increasingly organised nature of poaching operations; and the catastrophic impact on animal populations and vulnerable communities. We simply cannot claim to be ignorant any more. We can act and we must.

The Ivory Bill will introduce a total ban, with narrow and limited exemptions, on commercial activities involving ivory in the UK that could be directly or indirectly fuelling the poaching of elephants. By closing the UK ivory market to all items containing ivory, except those that meet narrow exemptions, we will remove the financial value from ivory, reduce the opportunity for new ivory to be laundered through legal markets, significantly reduce the flow of ivory from the UK to overseas markets, and encourage other countries to take similar actions. The Bill will

not affect the ownership, inheriting, donating or bequeathing of ivory items where this is currently allowed.

The exemptions are as follows: *de minimis*—items with an ivory volume of less than 10% and which were made prior to 1947; musical instruments with an ivory content of less than 20% and which were made prior to 1975; picture portrait miniatures produced prior to 1918, with a maximum surface area of 320 square centimetres; and items which are the rarest and most important of their type. This covers pieces made of, or containing, ivory produced prior to 1918 that are assessed by an independent advisory institution as of outstandingly high artistic, cultural or historical value.

The fifth category of exemptions covers museums: specifically, commercial activities, including sales, loans and exchanges to, and between, government-accredited museums—that is, museums which meet the strict accreditation criteria of Arts Council England or equivalent bodies in the devolved Administrations. There is no intention for this ban to affect the display of historic, artistic and cultural items to members of the public by accredited museums.

The Government have created a compliance and enforcement regime which is both robust and proportionate. Owners will have to register their item before they can sell it. Ivory owners will need to confirm that the item falls within the scope of a particular exemption. They will need to confirm, for example, that the item has less than 10% ivory by volume and was made before 1947. This will mean that owners need to consider carefully whether the item is exempt before it can be sold. This will also make enforcement of the ban easier, as it will be an offence to sell an unregistered item. This will not be unduly bureaucratic or burdensome: we are developing a new IT system to facilitate the process. This register will ensure security for both the buyer and seller.

It will be an offence to breach the ban on commercial dealing in ivory items. This offence can be committed in three distinct ways: by breaching the ban directly; by causing the ban to be breached; or by facilitating a breach of the ban. It is a defence to show that one took all reasonable precautions and exercised all due diligence to avoid committing the offence. Any ban is only as strong as its enforcement. Breaches will be liable to either civil or criminal penalties, meaning that enforcement bodies will have the flexibility to apply the most appropriate penalty, depending on the severity of the offence. Criminal sanctions for failing to adhere to the ban will be entirely consistent with existing offences concerning ivory under the Control of Trade in Endangered Species Regulations. Those found guilty of a criminal offence under these measures may be liable to an unlimited fine and/or a maximum prison sentence of up to five years. Civil sanctions will consist of stop notices, monetary penalties, enforcement undertakings and enforcement cost recovery notices. The Office for Product Safety and Standards, which is part of the Department for Business, Energy and Industrial Strategy, will be responsible for ensuring compliance, investigating breaches and issuing civil sanctions; the police will be responsible for criminal sanctions.

[LORD GARDINER OF KIMBLE]

The Ivory Bill is a proportionate response to curtail the demand for ivory, in our continued fight to save the elephant from slaughter in the wild. Our country is showing leadership, in a co-ordinated international response to the crisis. In October, we will host the fourth IWT conference, once again convening international partners to urge further decisive action. The Ivory Bill has a critical role to play. The nations with most at stake have sought our help. The Bill will help protect elephants of the present and future. That is surely our generation's responsibility. If we do not tackle this, we will lose the elephant in the wild. That would be an abdication of our duty to the natural world and I believe that future generations would rightly ask, "How on earth did you let this happen?" I beg to move.

3.43 pm

**Lord Grantchester (Lab):** My Lords, I thank the Minister for introducing the Bill and outlining its objectives and key clauses: he has made a very powerful case. This party is very pleased that the Bill is finally before your Lordships' House today and I am honoured to lead on this Second Reading debate for this side of the House, as since early childhood the elephant has been my favourite animal. Elephants are majestic, social animals that have walked this earth for tens of thousands of years, and their existence is now threatened by man's greed.

Labour Party policy is to introduce an ivory ban, as set out in our 2017 manifesto and restated in our animal welfare plan. The Conservative Party planned to ban the ivory trade in its 2010 and 2015 manifestos. After failing to act, it quietly dropped the pledge from its 2017 manifesto, but I am now delighted that this Government have had a change of heart and I commend the NGOs, charities and campaigners who have been pivotal in ensuring that this important legislation has now been brought forward.

The Minister said that the illegal wildlife trade has grown rapidly in recent years; this can no longer be ignored. It is now estimated to be the fourth-largest transnational illegal trade behind drugs, human trafficking and counterfeiting, and to be worth more than £15 billion annually. It is estimated that 100,000 elephants were killed by poachers between 2010 and 2012. Despite international efforts, around 20,000 elephants are still being killed every year for the illegal ivory trade—approximately 55 every day. According to figures collected by the Elephant Trade Information System, approximately 40 tonnes of ivory were illegally traded in 2016, the highest amount ever recorded. At that unsustainable rate, elephants are likely to be extinct in the wild within two decades. This is despite a ban on the sale of new ivory having been in place for more than 40 years.

The rapid decline in elephant populations demonstrates that the current legislation has failed to end the illegal trade. The existence of legal domestic markets has fuelled this trade by providing cover and reinforcing the high value of ivory across the world. Recently, China, Hong Kong and the United States have taken measures to ban the sale of ivory. As the largest exporter of legal ivory, Britain must now act urgently.

Ivory is an emotive topic for conservationists and antique dealers alike, and we believe the exemptions in the Bill strike the balance between being robust and being pragmatic. We welcome the de minimis exemption for items made prior to 1947 with less than 10% ivory content and the exemptions for musical instruments made prior to 1975 with less than 20% ivory content, accredited museums and items of outstanding artistic, cultural or historical significance. We will be pressing the Government to ensure that only the rarest and most important items of their type are granted exemptions and that an annual register of exemptions will be published to ensure transparency and public confidence in the ban.

Given that there is cross-party recognition that a comprehensive ban on the sale of ivory is necessary, we had looked forward to an amicable process that would enable us to pass this legislation swiftly. However, I am aware that some Members present are concerned about the limited exemptions for antique ivory and may question the relationship between ivory antiques and the illicit market and seek to dilute the tough provisions in the Bill. The Bill responds to the call of African nations that have grappled with the devastation of the illegal ivory trade over many years. Illegal poaching is serious organised crime that is decimating wildlife populations, threatening local livelihoods and fuelling further criminal activity including terrorism, with extremists using the money to fund their activities across Africa. I hope that as amendments are debated regarding the value and trading of antiques, the House will keep that at the forefront of the debate as the Bill makes good progress. The elephant and its conservation are the objectives.

While Labour wholeheartedly supports the ivory ban, that is not to say that the Bill cannot and should not be improved. It currently has a narrow focus on elephants, which ignores the poaching of hippos and other non-elephant species for their ivory. We believe that broadening the definition of ivory is necessary not only because many CITES species are at risk of becoming endangered but to prevent a narrow focus on elephant ivory pushing poachers towards other forms of ivory. The black market's insatiable demand for ivory has turned towards hippos, which offer a cheaper and, in many ways, easier ivory option, given that there is now more awareness and legal protection targeted at elephants. Indeed, hippos have declined by 12% to about 100,000 in the past decade. We hope that the scope of the legislation will be extended to protect hippos, walruses and narwhals and welcome the Government's commitment to put this out to a public consultation. This is important, given that there may be different consequences of banning certain types of ivory. For example, the Musicians' Union has highlighted the use of mammoth ivory in instrument repairs over many years as a deliberate alternative to the use of elephant-derived ivory.

We would also welcome further consideration of how exempted items can be verified. Of the many submissions received on the Bill, one of the most interesting came from the Musicians' Union. This brought up several issues concerning the documentation process for musicians, especially when travelling internationally for performances. We will also be looking

to the Minister to provide assurances that the registration and certification scheme is not open to abuse. The Minister will be aware that legal CITES Article 10 certificates have been used to conceal illegal ivory in the past and that other certification schemes have been subject to fraud. We must not let that happen here.

We will also be pressing the Government to ensure that the threshold for the defence of ignorance is set very high. It is well known that illegal trade is fuelled by unscrupulous traders marketing ivory as bone, as ivory sourced from other species or as antique ivory when it is in fact new. The consultation received record responses, as the Minister indicated, which is indicative of public and industry awareness. The Bill will be greatly improved by the inclusion of a legal notice at the point of sale advising that the documentation is a legal requirement, and we will seek to introduce such an amendment in Committee.

Lastly, we are also keen to ensure that there are adequate resources for enforcing this new legislation. The National Wildlife Crime Unit will be directly responsible for investigating and for enforcing the legislation once it is passed, but at present it has merely 12 members of staff, including administrative staff, to cover the entirety of its work across the UK. What assessment have the Government made of the resource implication of enforcing the ban for the wildlife crime unit? We trust that the Minister will be able to give assurances that it will receive the appropriate funding necessary for its needs. In similar fashion, I ask the Minister to outline what plans the Government have for proactively policing and monitoring sales, including online activity, and what kind of resources will be needed. This will need to be explored in greater detail in Committee.

I extend my thanks to the many organisations that have provided submissions and briefing notes on the Bill. There is no doubt in the public's mind that this is an important issue in desperate need of concerted national and international action. There must be a culture change away from ivory in a similar fashion to the changing perception regarding fur coats. It is a moral imperative.

These Benches are pleased to show cross-party support for this measure, which has been introduced in time for the Illegal Wildlife Trade Conference due to be held in London this October. It also needs to be most urgently brought forward for the elephant.

3.53 pm

**Baroness Miller of Chilthorne Domer (LD):** My Lords, it is a pleasure to be taking part in the Second Reading of this most important Bill. The Government are to be congratulated on bringing the Bill forward, as is the Minister on his excellent and comprehensive introduction. Given how much consensus has been achieved even on the trickier issues of antiques, I will not dwell on the detail of the Bill. However, I will mention some important points around it.

With regard to the illegal wildlife trade, bans work. Before 2005, the rainforests of Africa and South America were being stripped of their bird populations. Some species were driven to the edge of extinction, macaws in particular. Initially the UK was a bit reluctant to

join in but in the end it lent its vote to the EU, and the EU trade ban came in in 2005. Now, if you want a parrot, it has to be bred in captivity.

A study in 2017 by scientists from the University of Copenhagen and the University of Porto, published in *Science Advances*, looked specifically at how the EU's ban had affected the number of birds traded annually. They found that it had dropped from 1.3 million to 130,000—a drop of about 90%. Obviously 100% would be perfect but given that the trade is illegal there will always be some who flout the law, but I suggest that that is an incredibly impressive figure. Legislation in this area definitely has been shown to work.

After legislation, two sectors play a particularly important part in achieving the objective—those who work in the media and those who are in the front line. I congratulate the *Guardian* newspaper on its ongoing campaign in support of environmental defenders. Last year, 197 people were killed for defending land, wildlife or natural resources. In recording every defender's death, the *Guardian* hopes to raise awareness of the deadly struggle on the environmental front line. This House should commend the *Guardian* for highlighting these astonishingly brave people who, knowing the risks, lay down their lives for wildlife. It is often about habitat destruction, which I believe is as dangerous for wildlife as the trade in the products. Certainly that would be true for elephants. If they have no habitat, it is hard for them to exist.

The Minister mentioned avarice in his opening remarks, and much of this trade is based on avarice. Some people, however, think that it is based on necessity, such as when river sand is taken at completely unsustainable rates for use in development. Others mine minerals of all sorts around the world, including copper in South America—which I have seen at first hand—as well as nickel. I went to Lake Izabal in Guatemala, where some of the last manatees on earth live. Very sadly, the Solway Investment Group, which takes something like 2.2 billion tonnes of nickel a year and claims to do environmental assessments, has put that lake under extreme threat and, no doubt, the manatees with it. We have a responsibility for the mines because they are often owned by multinationals based in the UK, Canada or the US. Agribusiness is another destroyer of habitats. It is the biggest driver of violence against the defenders I mentioned, in the drive for soy, palm oil, sugar cane and beef. There is an awful lot to be done about habitat destruction, but I realise that that is not the subject of this Bill.

The BBC has done a lot to raise public awareness. Its programme “Natural World” recently featured a beast that I really had not appreciated, the pangolin. “Natural World” did for pangolins what “The Blue Planet” did for oceans. The pangolin, a little-known, scaly mammal found in Africa and Asia, is apparently now the most poached and illegally trafficked animal in the world. The conservationist Maria Diekmann rescues and rehabilitates pangolins. It really was an extraordinary programme and anyone who did not see it should watch it on catch-up. It showed what one person working on the front line could do to build a campaign to raise awareness of the plight of an animal that most people have never heard of. What she did

[BARONESS MILLER OF CHILTHORNE DOMER]

that was particularly powerful was to go to where the pangolins' scales are sold for medicine—China—and join forces with a Chinese social media megastar to campaign to the Chinese people about not buying this product.

I again congratulate the Government on hosting the Illegal Wildlife Trade Conference in the UK in October and commend them for their lead on this. At that conference, will the Government recognise the role of environmental defenders with a memorial wall? In particular, and especially poignant this afternoon, will they recognise the role of Esmond Bradley Martin, whose ground-breaking investigations helped the fight against elephant poaching? He died after being stabbed at his home in Nairobi. Bradley Martin was a geographer by training but he brought the illegal trade to the attention of the world. He had been working on this for a lifetime, since the 1970s, looking in detail at the movement of elephant ivory and rhino horn, among other substances. John Scanlon, head of CITES, said:

“He was tireless in his efforts to protect elephants and rhinos ... His research and findings across multiple continents had a real impact ... He was a longstanding and highly regarded member of the Cites technical teams looking into the poaching of elephants and smuggling of their ivory. He will be sadly missed by all at Cites but his legacy will live on”.

This Bill is part of that legacy.

4 pm

**Lord Hague of Richmond (Con):** My Lords, I draw attention to my interest as the voluntary chairman of the United for Wildlife transport taskforce, a coalition of companies that tries to prevent the shipment of ivory and other illegal wildlife products. I strongly and emphatically welcome this Bill today. As Foreign Secretary, as my noble friend Lord Gardiner noted, I hosted the first intergovernmental global conference on the illegal wildlife trade, here in London in 2014. The Conservative manifesto of 2015 went on to say that we would,

“continue to lead the world in stopping the poaching that kills thousands of ... elephants ... each year”,

and,

“press for a total ban on ivory sales”.

In the 2017 election, this commitment was mysteriously and, in my view, foolishly omitted, leading to some confusion about the Government's intentions. I am glad to say that that confusion has now been dispelled, particularly with the arrival of the current Secretary of State, Michael Gove, at Defra.

Two weeks ago, it was a pleasure to attend the reception at the Foreign Office with three Secretaries of State committing themselves to the success of the forthcoming conference, the successor conference on the illegal wildlife trade. One of those Secretaries of State has already departed the Government, of course, which is a little concerning, but I have already had a word with his successor, the new Foreign Secretary, who very much supports the importance of the conference. That conference is a reminder to us that, while this Bill is very important, it should not make us think that we are yet doing everything that is necessary to combat the illegal wildlife trade. This is part of that effort, on one aspect of it—on ivory. We should renew our determination on every other aspect, because rhinos

are being driven to extinction by beliefs about the properties of their horns that are utter drivel, and hundreds of thousands of pangolins, as the noble Baroness, Lady Miller, said, are trafficked and killed. That is sad testimony to the fact that, even though we think that we live in an age of enlightenment in the human race, we are still surrounded by a great deal of selfishness, stupidity and greed.

The situation of the African elephant is one of the most dramatic pieces of evidence of that, with perhaps 30,000 elephants killed annually. Other figures of 20,000 are cited, but the numbers are vast. The great elephant census of 2016 showed the population of savannah elephants declined by 30% between 2007 and 2014, in just seven years. The situation of forest elephants is perhaps even worse. The need to end that slaughter is easy to justify even in purely human terms, of course. An elephant should be worth more alive than dead to a local community. They are a key part of a sustainable ecosystem; their killing is often part of the actions of organised crime or the consequence of corruption. It is in conflict with effective development in many countries across the world to allow that slaughter to continue but, of course, we do not need to justify it only in human terms. Put simply, this planet is not just for us; if we have any right to live on it, so do all the other species of the earth. It is a moral and ethical outrage that so many species are driven to extinction while inadequate steps are taken to address that.

The situation of the African elephant is now an emergency, which has developed in the last decade as rising prosperity in the East has brought new demand for ivory items. On 4 July last year, just over a year ago, the Hong Kong authorities made the world's largest ever seizure of illegal ivory—more than 7 tonnes—which equates to hundreds of dead elephants in one shipment alone. Much can be done about this. The coalition of companies that I chair, to which I referred, now totals 102 airlines and shipping and freight-forwarding companies which are prepared to go beyond the minimum requirements of the law, and to do the utmost they can on this subject. However, those companies, and the hundreds of thousands of people across the world who work for them, look to governments and legislatures to do their bit.

The ultimate answer is, of course, to eliminate the demand for these products. The work done by our task force is under the auspices of the Royal Foundation and His Royal Highness the Duke of Cambridge. I pay tribute to him and his efforts. When he addressed the people of China about not wanting such items any more, he had an audience of hundreds of millions and made a great impact. There is now hope: China is showing strong and firm leadership. Its airlines are signing up to declarations with the other companies that I mentioned. When President Xi Jinping met President Obama in 2016, China and the United States committed themselves to a near-total ban on the ivory trade. China is probably the largest market in terms of demand for these illegal products but is closing shops and factories. However, Chinese officials have expressed disappointment to me in the last 18 months. They deplore and regret the United Kingdom's failure to take similar action until now. The Bill is part of putting that right.

Many British people would be astonished to discover that the United Kingdom is now probably the largest legal ivory market in the world. That has to be brought to an end, and here is the crux of the argument for the Bill. We have to persuade people in China, Vietnam, Thailand and elsewhere: that seeking products made of ivory is no longer socially acceptable; that they are not to be regarded as of value; that they are not a symbol of luxury but of cruelty; and that seeking their acquisition is not a sign of wealth but of ignorance. We cannot defeat ivory poaching if we cannot persuade people of those things. We cannot persuade people if we in the United Kingdom say that it is okay to sell our old stuff to them, even though we do not want them to buy anything new. This is all the more true when it is so hard for most people to know how old ivory may be. Sometimes, in recent years, thousands of ivory items from the United Kingdom have been sold through the Hong Kong market in a single year.

The antiques trade in this country is indeed, as my noble friend said, a world-renowned and outstanding industry, but a couple of months ago I saw a quote in the newspapers from someone in that trade arguing that banning sales of older ivory would not save a single elephant today. The answer to that argument is: of course it will save elephants. We cannot persuade anyone that seeking ownership of ivory is undesirable if we are selling it to them at the same time and ascribing value to it. That is why a ban of the kind embodied in the Bill is so important. For it to work, the law has to be simple, clear and tough enough for people to know if they are breaking it. Therefore, the exemptions have to be kept as minimal and tight as possible. The Government have found the right balance in the Bill, or come very close to doing so.

Under current law, necessary certificates are often forged and internet sales, which have become prevalent in recent years, show little awareness of or care for existing laws. The International Fund for Animal Welfare found that most ivory sold in antique shops and fairs was sold without the required proof of age, while 40% of the illegal wildlife products seized by UK Border Force in a recent five-year period were of ivory. That is not an acceptable state of affairs in the United Kingdom. The United Nations Office on Drugs and Crime is in no doubt about this; my noble friend quoted it, so I will not read that out again, but basically the trade in illicit ivory is lucrative only because there is a parallel licit supply. That is why countries such as Botswana and India have now implemented a total ban, with no exemptions. It is why African range states are asking us to take this action and why it is important to extend this ban—as the noble Lord, Lord Grantchester, mentioned—to other species which have ivory, such as hippos, so that new confusion and displacement of demand is not inadvertently created by the introduction of the ban on elephant ivory. I am also pleased that the Government made commitments on Report in the other place to address that issue, and quickly.

The case for the Bill is overwhelming. For those of us who are involved, as I am, in efforts to interdict and intercept shipments and to reduce demand, our job will definitely be made easier by the introduction of this law. It is not the answer on its own but it is an integral part of a concerted and urgent effort across

continents, cultures and industries. If we did not in this country propose and pass such a Bill, we would not be playing our part in the great international effort that is required to save some of the world's most iconic, splendid and vital animals from slaughter and devastation. If we pass the Bill and give it a warm welcome in this House, we can play our part in that necessary work.

4.12 pm

**Lord St John of Bletso (CB):** My Lords, it is a pleasure to follow the noble Lord, Lord Hague of Richmond, who has played a key role in campaigning to stop the illegal trade of ivory. I also welcome the Bill and was delighted that it had a swift passage through the other place. It is of paramount importance that it be enacted before the IWC Conference in London in October, to which over 70 countries have been invited. I declare my interests as a long-term trustee of Tusk Trust—I am now on its advisory board—and as vice-chairman of the APPG on Endangered Species.

We are all acutely conscious of the horrendous and stark poaching statistics, mostly for African but also Asian elephants. As the Minister mentioned in his excellent opening speech, there is strong public support for a ban on buying and selling ivory in the UK. In fact, many campaigners have been asking for no exemptions. I support very limited domestic trade in items falling within the exemptions as listed in Section 2, but call for a total ban on all online dealing. There is increasing evidence of ivory being passed off as antique items when in reality, it is modern ivory. To this end, I wholeheartedly support the total ban of raw tusks.

I was alarmed to read in the Wildlife Trade Monitoring Network, called TRAFFIC, that between 2005 and 2014, the United Kingdom was a net exporter of ivory for commercial purposes. TRAFFIC also gave evidence that UK ivory traders were often unclear about the laws pertaining to the legal ivory trade. To this end, I strongly recommend that a user-friendly guide to the new rules be published on the APHA website, including the CITES rules. The ivory trade represents less than 0.7% of antique trade in the United Kingdom in revenue terms. The British Art Market Foundation has been clear that it would have liked the legislation to have been a little less tough, but can live with it.

The noble Lord, Lord Hague, mentioned the sale of ivory antiques, in many cases to markets in Asia. This has fuelled the desirability of ivory and, many would argue, has undermined enforcement measures and efforts in key destinations where there has been a massive problem with illegal ivory. I pay tribute to the enormous efforts and contribution of the Duke of Cambridge in persuading the Chinese to forge ahead with their measures to ban the ivory trade and, now, shut down designated factories. It is critical that UK exporters be substantially curtailed in their exports to Asia. I welcome the recommendation that Defra should publish an annual report showing details of the number of new items allowed to be sold through the registration and exemption certificates processes.

We should draw attention not only to the horrendous elephant poaching statistics but, as the noble Lord, Lord Hague, has already mentioned, to the plight of

[LORD ST JOHN OF BLETSO]

rhinos and other endangered species. The noble Lord, Lord Grantchester, drew attention to the reduction in the number of hippos in the wild. I understand there has been a 95% reduction in the number of hippos over the last 30 years, mostly relating to their teeth. To this end, I welcome the power in this Bill to extend its protection to ivory that comes not only from elephants but from other species. This will be limited to species listed in one of the CITES appendices, but can the Minister indicate whether more can be spent from our aid budget to support conservation efforts?

In conclusion, the sheer number of noble Lords who are speaking at Second Reading shows the depth of feeling and support for this Bill. The Bill should be framed openly, in the CITES context, as a stricter measure, under Article 14 of the convention and through implementation by the United Kingdom of its international commitments. We need to show leadership. It needs also to be enforceable. I hope the Bill will have a speedy passage through your Lordships' House and I wholeheartedly support it.

4.18 pm

**Lord Selkirk of Douglas (Con):** My Lords, I congratulate the noble Lord on an excellent speech and it is a pleasure to follow him. When we declare an interest with regard to a particular matter being debated in the House, it is usually a financial or economic one. On this occasion, as we discuss a ban on the buying and selling of ivory with a few limited exceptions, I would like to mention an interest in one relative in particular. I am very happy indeed to have as my cousin Iain Douglas-Hamilton, a renowned zoologist and wildlife conservationist. He and his family are based in Kenya and, 25 years ago, he founded the charity Save the Elephants, which is still going very strong.

Iain said that as a boy he dreamed of flying across the African bush helping to save the continent's wildlife. Dreams can come true. Indeed, for many years he flew over a number of African countries carrying out elephant counts so that their Governments would know by how much the elephant populations had dwindled. This was an important service for the Governments concerned. Iain became one of the foremost authorities in the world on the African elephant and one of its greatest champions. He wrote in the *National Geographic* blog:

"The world's wildlife, both on land and in our waters, is such a precious resource, but it is also a limited one. It cannot be manufactured. And once it's gone, it cannot be replenished. And those who profit from it illegally are not just undermining our borders and our economies. They are truly stealing from the next generation".

I believe that Iain Douglas-Hamilton was right about the next generation. The natural heritage of many parts of Africa is directly under threat, and what amounts to ecocide could destroy the wildlife and the magnificent animals that attract tourists to Africa from all over the world.

Thanks to Save the Elephants and other estimable wildlife conservation organisations, we have a great deal of knowledge about the situation facing these very intelligent animals, which make such an invaluable contribution to the ecological infrastructure of our

precious planet. We also know, sadly, of the man-made perils that currently stalk the elephants. Ivory can command a high price, particularly in the Middle East, and that continues to be a powerful incentive to the networks of brutal poachers and traffickers.

According to the United Nations, up to 100 elephants in Africa are being killed every day, with their tusks hacked off their bodies by ruthless poachers involved in the now illegal international ivory trade. In the last 10 years, the number of elephants in the world has gone down by almost one-third and, as has been said by the noble Lord who has just spoken, we must not forget the threat posed also to rhinos, hippos and walrus, as well as the narwhal, with that extraordinary pointed tusk. It is much to be welcomed that the Government began a consultation earlier this month to see whether the new, tougher ivory trading ban that we are considering today, which will apply regardless of the date of the object, can be extended by secondary legislation to other such creatures.

The trade in ivory has highlighted the situation by pointing out how close to extinction a very special species can be. My noble friend Lord Hague of Richmond made one of the best speeches I have ever heard in this House. He is fundamentally right in saying that we are confronting a moral outrage. I believe that to be entirely the case.

The action taken by the United States, China and France has already been referred to. Being prepared to act is a significant indication of the importance of this subject. The Government have said that the Bill before us will bring into force a ban on ivory sales in the UK which would be,

"the toughest in Europe—and one of the toughest in the world".

Adequate enforcement of the ban in the UK will obviously be very important, so can the Minister assure us that that will happen and that the narrow exceptions, which the Government say do not make any contribution to poaching, will not be exploited or abused? Are the proposed self-registration and certification processes robust enough for items for which exemption is sought?

The ivory trade of course is not the sole threat to the well-being of elephants in Africa and Asia; they also face the continuing encroachment of human development into their traditional territories. Iain Douglas-Hamilton has put a lifetime of research into the conservation of elephants. He has discovered that farmers do not need to kill elephants that are trampling their crops. Elephants fear bees stinging them in the eyes, so if the boundaries encompassing fields have beehives, the elephants will not invade them. Over and above that are the proposals for safe zones for elephants. These will need to be protected and local populations helped to understand the positive benefits that co-existence with the elephants can bring. One reality identified by Save the Elephants is that elephants travel by night to avoid predators. Despite this evasive action, however, the threat to their survival continues.

Returning to the Bill, the Government are to be strongly commended for listening to the views expressed by more than 70,000 people who took part in a wide-ranging consultation, in which 88% backed a complete ban. The Environment Secretary, Michael Gove, has said that this legislation,



“will reaffirm the UK’s global leadership on this critical issue, demonstrating our belief that the abhorrent ivory trade should become a thing of the past”.

That day cannot come too soon.

4.25 pm

**Lord Clement-Jones (LD):** My Lords, I declare an interest as a trustee of Space for Giants, the conservation charity, and as an organiser of the Giants Club conservation initiative, which unites the heads of state of the four countries that hold half of Africa’s remaining elephants: Botswana, Gabon, Kenya and Uganda. It has been a pleasure to follow the speeches today. It is true that, whatever our disagreements on other matters, what unites everyone in this building is that we are all elephant lovers. There are many people who should take credit for the decisive action in this Bill, and many of them are in this House today. This is a real opportunity for leadership by the UK, as several witnesses said to the Public Bill Committee, and Defra has shown enthusiasm for the cause. At the same time, we are part of a worldwide movement, and I am particularly pleased by the hugely significant ban by China on the trade in ivory, which was mentioned by the noble Lord, Lord Hague.

I am not going to repeat the figures for the decline in the savannah elephant populations, which were set out so clearly by the Minister and the noble Lord, Lord Grantchester, or indeed the rate at which elephants are being slaughtered for their ivory each year, which was mentioned by the noble Lords, Lord Hague and Lord St John. However, the rate is unsustainable: one every 25 minutes. There is global consensus that legal domestic ivory markets contribute to the illegal wildlife trade and to the poaching of elephants, by fuelling the demand for ivory items and providing the opportunity for illegal modern ivory to be laundered through the legal market.

The UK has one of the world’s largest domestic ivory markets, with ivory items widely available for sale, subject only to certain licensing restrictions on post-1947 ivory. Independent reports have found that the UK market plays a role in the illegal wildlife trade, providing cover for the trade in illegal items. Trade data indicates that the UK is the world’s largest exporter of legal ivory pieces and in particular exports more than any other country to the world’s largest illegal markets in Asia. So I strongly welcome the UK Government’s proposal to ban ivory sales. As the noble Lord, Lord Selkirk, mentioned, recent polling conducted at the beginning of December 2017 showed that a huge proportion of the UK population—88%—supports a ban on buying and selling ivory in the UK.

With the London conference on the illegal wildlife trade being held in October, I agree with the conservation charities that it is imperative that a near-total ban on UK ivory sales is in place as soon as possible. But I also agree with many of the environmental and conservation charities, such as the Environmental Investigation Agency, the Born Free Foundation, the David Shepherd Wildlife Foundation and others, that there are key flaws in the Bill that should be addressed in the meantime.

I do not advocate a total ban on sales of all antique ivory and I support the Government’s proposed exemptions for sales of items containing a very small amount of ivory, along with pre-1975 musical instruments, and sales to and between museums. As a strong supporter of live music, I do, however, share some of the concerns of the Musicians’ Union, which is otherwise very supportive of the Bill. I hope that the Minister will be able to answer a number of specific questions in this respect. Does mere ownership require registration under Section 10 or if the owner wishes to sell an instrument? Will a certificate be required for non-commercial use? Will a UK certificate be usable internationally as a musical instrument certificate when a musician performs abroad? Is that a certificate for each instrument or are all instruments owned by an individual covered? What will be the charge for such a certificate? The MU asked that this be waived or set at a low rate for professional musicians.

On the contrary, however, I do not support the width of the proposed exemption for continued commercial trade in items of artistic, cultural or historic significance. The scope of the proposed Section 2 exemption in the Bill is vague and will involve subjective judgments. An analysis of the impact of the Bill showed that around 25% of currently traded ivory items will fall under the exemptions. The UK exported around 36,000 ivory items worldwide from 2010 to 2015, with the USA the next-highest exporter with around 9,800 items. Therefore, even if the proposed ban with exemptions had been in place, exports would have been around 9,000 items—a quarter of 36,000—meaning that the UK would still have been the second-highest exporter of antique ivory in the world. At the very least, exemption certificates should be made harder to obtain.

All commercial imports and exports of ivory items should be banned and, if not, at least Section 2 items should be banned. All online dealing in ivory should be banned, as the noble Lord, St John of Bletso, mentioned. Allowing only physical sales, combined with the exemption certificates and registration process, should considerably reduce illegal trade and make the enforcement authorities’ job far easier. As the noble Lord also said, the Bill should clearly specify that all trade in raw ivory is banned—in other words, raw ivory should not be sold under any of the exemptions.

There should be a compulsory registration scheme for items exempted under Section 2:

“Pre-1918 items of outstanding artistic ... value and importance”—

which means that they can be traded repeatedly. Documentary evidence to prove the legality or origin of the ivory item should be required to support applications for exemption certificates and registration. Finally, the statutory guidance on criteria for the artistic exemption to be issued by the Secretary of State under Section 2(3) will be crucial. Will there be public consultation with all stakeholders on its provisions? Then, as mentioned by a number of other noble Lords, we have extensions to non-ivory. That should not delay the Bill, but there should be, as many organisations have suggested—I hope that the Minister will repeat this assurance to the House—a consultation under Clause 35.

[LORD CLEMENT-JONES]

I have a further query about resources for enforcement, both online and offline, for Border Force based at Heathrow leading the CITES team that enforces the UK's obligation to the convention and the UK National Wildlife Crime Unit. Will they have sufficient powers under the Customs and Excise Management Act 1979? How will this interface with the regulator, the Office for Product Safety and Standards? Also, while there is mention in the Bill of forfeiture following conviction, there is no specific mention of the application of the Proceeds of Crime Act 2002 for recovery of criminal assets. I hope that the Government can clarify that all this will apply. We should ensure that the full force of the criminal law is brought to bear through the process of this Bill.

4.34 pm

**Lord Lingfield (Con):** My Lords, I have an interest to declare, in that I own a 19th-century artefact made entirely of ivory. It is of minimal intrinsic value and little artistic merit; in fact, it is a long paper knife. These items were most often used for cutting the pages of new books. However, it belonged to Benjamin Disraeli and is one of the few Disraeli treasures outside the ownership of the National Trust at Hughenden. It has letters of provenance from his niece, Mrs Coningsby Disraeli, attesting that it was always on the great man's desk, and family tradition had it that it was given to her Prime Minister by Queen Victoria herself when she was created Empress of India.

Notwithstanding that, I have listened to the description given by my noble friend the Minister of the wonderful work that the British Government are doing across the world in trying to bring to an end the illegal killing of elephants for their ivory, an activity which I entirely condemn. I have read thoroughly all the guidance we have received as well as the various submissions by others to the consultation. I have read the speeches in the other place, and I agree that the banning of the sale of pre-1947 works made of ivory in this country could lead to a reduction in the incidence of poaching for ivory in the Asian sub-continent and in Africa, and a reduction in the appalling market for ivory products in China. I welcome the explanation given by the Minister of how this will work. However, would he also comment on whether any other antique artefacts are made from parts of animals or birds that are threatened with extinction which have been banned for sale with the result that their numbers have risen?

Disraeli's paper cutter would, I suspect, be exempt under Clause 2 of the Bill as being of outstanding historical value. I have no intention whatsoever of selling it, but I would like to consider for a moment the process of exemption. Should I decide to apply for an exemption certificate and pay a fee, the Secretary of State will appoint assessors, probably several of them, to consider the following: first, whether it is indeed made of ivory; secondly, whether it was fashioned before 1918; and, thirdly, whether it is outstanding according to the criteria set out in the Bill. Unfortunately, the combination of government processes and cultural or historical assessors is too often a recipe for procrastination and delay. I am currently awaiting some answers from government and its assessors

concerning another valuable historic artefact, and have been doing so for five years, so far with no result. Would it not be proper for the process of the creation of exemption certificates to be time-limited to, say, normally three months? If that limit cannot be put into the Bill, would the Minister give an assurance that he will consider it for the regulations?

My comments are but brief ones, and this is an area in which understandable emotions and sorrow concerning the fate of these wonderful animals must indeed guide us. I welcome and shall be supporting the Bill.

4.38 pm

**Lord De Mauley (Con):** My Lords, despite a ban on the international trade in ivory, as we have heard today, tens of thousands of elephants are killed every year for their tusks. There has been an upsurge in poaching in recent years which has led to steep declines, particularly in forest elephant numbers as well as some savannah elephant populations. It is a tragedy. Thriving but unmonitored domestic ivory markets continue in a number of countries, while insufficient anti-poaching capacity, weak law enforcement and corruption compound the problem.

I served as the Parliamentary Under-Secretary of State at the Department for Environment, Food and Rural Affairs from September 2012 to May 2015. During that time, among other things I was lucky enough to play a role in the United Kingdom's efforts to bear down on the poaching and trafficking of wildlife. Several million pounds were granted to projects around the world which contributed to this effort. We organised a conference at Lancaster House in February 2014, which has been referred to in the debate. It was convened by His Royal Highness the Prince of Wales and attended by both of his sons as well as heads of state and government Ministers from more than 40 countries. That conference was followed by one the next year in Kasane in Botswana, which I attended on behalf of the British Government, and one a year later in Hanoi. As we have heard, there will be another one this autumn, again in London.

Our commitment should be in no doubt, and we have made some progress. Enforcement is now better co-ordinated, and punishments have been made stricter. But more needs to be done. Consumer countries such as China and Vietnam have become engaged. Indeed, at the beginning of this year, the Chinese Government introduced a ban on its domestic ivory trade with exemptions for cultural relics. However, there is still much to do, so I can understand why the Government propose this Bill and, indeed, I welcome certain aspects of it.

I thank the Government for exempting miniatures, albeit since the Bill's emergence from another place rather more tightly circumscribed than before. On that point, I declare an interest as the owner of a small collection of miniatures, although I have absolutely no intention of selling them. I am now chairman of LAPADA, the art and antique dealers' trade association. Although my remarks present my own views, they are informed by what I have learned in that capacity.

The Government now propose a total ban on the sale of ivory, with limited, tightly drafted exemptions. I want to focus my remarks on three specific areas of

concern. First, thousands of people will have acquired, legally and in good faith, antique items that contain elements of ivory not covered by the exemptions. At a stroke, those items will be made valueless. I would hate to think that the Government simply do not care about those people. We should bear in mind that the Secretary of State put his name to a document that admits that,

“the UK ivory market has not been directly linked to the trade in recently poached ivory”.

I have heard nothing today to contradict that.

Furthermore, in a 2016 television investigation into the trade in poached ivory, the BBC trawled through online listings of hundreds of low-value solid ivory carvings offered at regional auctions and submitted the nine that seemed the most recently made for scientific testing. Just one of them dated from as recently as the 1980s, but of course the existing law would already be able to deal with that if it was illegally poached. Traffic visited 200 dealers in London in 2016 and concluded that not one of the 3,200 items they found containing ivory was new; they therefore did not contain any recently poached ivory. Only one of the items was reportedly made after the current 1947 cut-off date for offering ivory for sale without a permit.

I could show the Minister many examples of items that would be caught by this Bill, but let me give just one: a George V silver and ivory-handled ink blotter, in respect of which the *de minimis* level would need to be set at 20% for it not to be caught. Since its ivory content would lie above the currently proposed 10% threshold, such items would need certification as being deemed of genuine artistic, cultural or historic significance. They may well not qualify for that, which would mean they would be unsaleable and therefore worthless and which could ultimately lead to them being destroyed. Many thousands of these sorts of items may go the same way. The Government have said that they do not want to continue to rely on the current 1947 cut-off date, after which worked ivory cannot be sold, but this could offer the key to resolving what might otherwise become a thorny problem. I urge the Minister to consider the fact that 1947 is now 70 years ago and that it is technically feasible to age and then certificate ivory.

Secondly, I want to make sure that what we enact and put on the statute book is workable and does not collapse under the weight of its own bureaucracy. Take a small antique dealer with a booth in an antiques centre. He regularly takes in items from house clearances in his neighbourhood. Every single piece of furniture or small object that he buys will need to have been considered and analysed for its ivory content, however small: chests of drawers with small ivory escutcheons around the keyhole; Victorian games boxes inlaid with ivory; music stands with ivory elements; opera glasses; musical boxes—I could go on. Not only will sellers need to decide whether each item is eligible for one of the exemptions, but for each item they believe meets one of the exemption criteria, they will need to give a full description, take and upload a photograph, carefully describe and photograph distinguishing features, and explain why they believe the item meets the exemption criteria before it can be offered to the dealer. This level

of detailed information and time applied might be appropriate for a historical antique worth £10,000 but not for objects that sell for £250.

I wonder whether the Government realise just how many such items will feature on this register. Where small elements of inlay are involved on low-value antiques, it is often the case that ivory does not get mentioned in sales descriptions, so if the Government have relied on online searches for “ivory”, they could well be in for a nasty shock as to the numbers of objects people will need to register.

Thirdly, I want to make sure that we do not put in place a regime which is inappropriately draconian in terms of criminalisation and powers of search and entry. Imagine a young couple who move into an old property they want to do up and discover the loft is full of cardboard boxes containing an array of old objects. They set up a stall at a car boot sale with all the objects lined up and they price at £25 a 19th-century wooden tea caddy with pale cream decorative inlay on the lid, to which they do not give a moment’s thought. A random check by an accredited civilian officer spots the box and tells them that it is almost certainly decorated with ivory, even though it amounts to probably just 5%. They are told they should have suspected it to be ivory and have committed an offence by failing to register it. Furthermore, they are reminded that the civil sanctions alone allow for a penalty of up to £250,000. Subsequently, they are fined.

This situation could easily be duplicated for countless other people who want to sell objects with low ivory content, no matter how small the amount of ivory they contain and irrespective of their value. There are thousands—probably hundreds of thousands—of old domestic objects regularly bought and sold containing less than 10% ivory, for example Georgian silver coffee pots with old ivory insulators, and perhaps tens of thousands of musical instruments containing less than 20%, such as old pub pianos with ivory keys. These are objects for which the sellers and buyers will simply not make a connection between the objects and the elephants we want to save. This begs the question: should people be fined, or even criminalised, for failing to list on a government register so many relatively common domestic antiques? Should we not encourage such second-hand objects to be sold and reused, rather than abandoned?

I completely share the Government’s objective of eliminating the poaching of elephants and other rare wild animals. However, as I have said, I have grave concerns about the impact of this Bill on people who have legally acquired items that will now become valueless, about the unwitting creation of a huge bureaucracy, and about criminalising innocent people.

4.47 pm

**Baroness Quin (Lab):** My Lords, it is a pleasure to speak in this debate and welcome this Bill. I pay tribute to the Minister for introducing it, and to my noble friend Lord Grantchester, who both showed that there is very strong cross-party support for this measure. Indeed, that cross-party support was very clearly seen in the House of Commons and already in this debate there has been very marked all-party support in your Lordships’ House.

[BARONESS QUIN]

The history of killing elephants for ivory is a very ugly and shameful one. The sheer scale of the slaughter shows that we are in a race against extinction of one of the world's most well-loved species. However, I was glad the noble Baroness, Lady Miller, reminded us that there have been human victims of this ivory trade too, including brave people who have given their lives to combat it, and they deserve to be remembered and known for their valour and courage.

I am glad that the Labour Party has a history in its manifesto of committing to this measure, and I support the amendments put forward by the Opposition in another place in seeking to allow the Bill to be extended to other animals. I very much take the point of the noble Lord, Lord Hague, that simply banning elephant ivory risks displacement to other similar ivory substances. However, in speaking in this debate I will make particular reference to musical instruments. I am glad that my noble friend Lord Grantchester and the noble Lord, Lord Clement-Jones, mentioned this. I will mention an instrument that I imagine was not in the forefront of drafters' minds when they were looking at this legislation: the Northumbrian pipes. I have a non-financial interest to declare in that I am president of the Northumbrian Pipers Society. I own two sets of pipes, although they do not contain any ivory.

The Northumbrian pipes are perhaps the only indigenous instrument of the regions of England still being played. They are not like the Scottish bagpipes in that they are a domestic instrument, rather than an instrument that can be played in grand open-air ceremonies. Indeed, their history is that they used to be played largely by shepherds in hillside cottages in the winters in Northumberland for local entertainment. The difference between the two sets of pipes was brought home to me when I tried to arrange a reception for pipers here in the House of Lords in which I hoped 20 pipers would be able to play in quite a small room. The authorities at first looked at me with some horror, imagining the amount of sound that would come from 20 or so pipers in a room. I commend these instruments to your Lordships. Indeed, in this summer of the Great Exhibition of the North I hope you will all visit Newcastle and the north-east to hear them for yourselves.

There is an issue with the retrospectivity in the legislation. A lot of Northumbrian pipes were made entirely legally in the 1970s and the 1980s, when there was renewed interest in the instrument, using either antique or CITES-licensed ivory. These days, many of those original pipe-makers are now not making pipes. It is felt that if the exemption applies as strictly as is currently arranged in the Bill, it will be quite difficult for those Northumbrian pipes to remain on the market and to be used, at a time when we are trying to increase interest in the instrument, in particular to increase the playing of it in schools and local areas in the north-east.

The percentage rule has been mentioned. I ask the Minister—it is not clear to me, although it might be to others—why those percentages were chosen and how they are interpreted. In the case of the pipes, for example, if you look at just the actual pipes, several would easily come over the 20% rule, although for the

instrument as a whole, with the bellows and the bag, the percentage would be rather different. Would the Minister address in Committee, if not today, how these percentages will operate? I note he said it was by volume, but I would like some clarification of how that operates in the case of a rather complex instrument like the Northumbrian pipes.

I was struck by the powerful speech from the noble Lord, Lord Hague, and I understand and support the rationale behind the Bill, but I find it slightly difficult to understand how permitting the sale of the Northumbrian pipes made after 1975, entirely legally—pipes that were bought as instruments to be played, not as pieces of ivory to collect—would in any way threaten the vital battle against the poaching of elephants. These items will be on the market despite their ivory content, not because of it.

The Minister in the other place expressed sympathy about this and agreed to meet with Members of the other place who raised this issue, in particular the Member of Parliament for Berwick-upon-Tweed and my honourable and good friend Liz Twist, the MP for Blaydon. I hope that those meetings are taking place and that some ways of addressing this issue can be thought about in a sympathetic way. I know that the Minister here today and my noble friends are aware of my concern, so I will not say anything further about it at this stage but will perhaps revert to it in Committee if I feel I want to explore the issues further.

I do not wish what I have said to detract from my overall support for this measure, which I believe is extremely important. It is important in its own right, but also in terms of our commitments to biodiversity at the international and national level. We all know what a challenge biodiversity is in the world today. It is even a challenge to us here in the UK—with threats to species such as the hedgehog, the water vole and our beloved red squirrel, there are many challenges for us here to address—but internationally this is a huge challenge, and fundamentally I believe that the Bill is an important way of starting to meet it.

4.55 pm

**Lord Carrington of Fulham (Con):** My Lords, strangely, I want to start by making a declaration of non-interest. Because of the sometimes emotional nature of this debate on the Bill, I think it is important to make clear that I have no interest to declare: I am not connected to the antiques trade; nor do I have a collection of ivory items, although inevitably, in common with many people, including perhaps some of your Lordships, I own some objects that contain ivory. Most were inherited from long-dead relatives, such as a Victorian coffee-pot and some early 20th-century fish knives and forks, or are decorative items which contain a small piece of ivory inlay, such as an escutcheon around the keyhole of a wooden box.

Let me add that I strongly support the intention of the Bill, as I suspect do the overwhelming majority of your Lordships and people outside this House. We all want to protect elephants and other animals hunted and slaughtered to feed the trade in modern ivory, and I have no doubt that the intention of the Bill is to do just that. However, I have very real concerns that the

Bill will fail to achieve these objectives. Indeed, I fear that, paradoxically, the Bill as drafted may well increase the likelihood of poaching of elephants for their ivory.

The logical basis of the Bill is that modern ivory items are indistinguishable from items made from ivory long ago. Many people familiar with antique ivory dispute this assumption by Defra. I will return to this in detail but, broadly speaking, there are many ways to distinguish old from new ivory. At one extreme is radio carbon dating and at the other is the expertise of museum curators and ivory specialists in the antiques trade. As the Bill assumes that it is not possible to distinguish old from new, it bans all trade in ivory—except that it does not, as it creates three groups of exemptions from the ban. First, it creates an elaborate system for identifying museum-quality items of exceptional importance, which museums can then buy and sell. This accepts that museum curators can distinguish old ivory from new, since these items will be vetted by experts before they can be considered to have met the museum-quality criteria. Just how this fits with the belief that it is not possible to date antique ivory with an acceptable degree of certainty for lower-quality items is unclear.

If it is possible to tell that an item of museum quality is made of old ivory and not faked in some Vietnamese workshop, then it is possible to tell that a less remarkable item is also old. After all, the ivory is the same; it is just the ageing effects on the ivory, and often the quality of the workmanship, that are different. The Bill ignores the scale of the problem which any panel of curators will face: the number and range of items will be very large. We have many museums in this country and, of course, museums able to buy and sell will not be confined to the UK: American and EU museums regularly buy and sell in the UK's thriving art market, and the Bill seems to allow for that.

What is museum quality for the British Museum, which has just accepted the Sassoon collection of ivories, will be different for another museum, equally respectable and academically rigorous and duly registered by the Arts Council. There are 1,576 Arts Council-registered museums in the UK. A museum such as the Geffrye Museum near Bishopsgate in London, specialising in middle-class and working-class life in the 17th, 18th and 19th centuries, would probably not be interested in the Sassoon collection, but might well be interested in an ivory-handled table knife of no great artistic value from the 18th century as illustrating the lifestyle of ordinary people 300 years ago. It might be the Millennium Gallery in Sheffield, which has an outstanding collection of cutlery through the ages, many pieces of which will have ivory handles.

The second and third categories of exemption are pre-1918 portrait miniatures and pre-1975 musical instruments. I warmly welcome these exemptions, although I suspect that they were granted not because of any logic about the amount of ivory as compared with other similar items, but rather to avoid vocal opposition from well-organised lobby groups and media stars in the music industry and on "Antiques Roadshow". It is important to point out that the amount of ivory in a portrait miniature can be greater than that in an 18-century theatre ticket disc, yet the miniature is

exempt and the theatre ticket is banned. The value of both, by the way, has nothing to do with the small amount of ivory they contain.

For musical instruments, the curious exemptions are the cut-off date of 1975 and the 20% by volume of ivory that the instrument is allowed to contain, as opposed to a limit of 10% for all other items containing ivory. If you have an upright piano with ivory keys dated before 1975, you are exempt and able to sell it. If you have a 1920s art deco sculpture, by a world-famous artist, of a dancer with a metal body but ivory head and arms, above or below 10% by volume makes no difference: you are banned from selling it as the cut-off date is 1918. Any exemption is welcome. All I ask for is some consistency and perhaps some clear and transparent logical justification.

This illustrates another problem with this Bill: the sheer volume of ivory items created over the centuries before plastics became available. I have seen estimates of 2 million to 3 million objects incorporating ivory, and I suspect that this will turn out to be a gross underestimate. Most table cutlery, to take but one example, had ivory handles prior to World War 2. There are probably several million knives and forks of all types incorporating some ivory still in existence. Before the advent of plastics, ivory was used as an insulator for a wide variety of items, such as coffee-pot and tea-pot handles. Many chests of drawers, tea caddies and writing boxes had small ivory inlay, and so it goes on. The number of items containing ivory made before 1918 will run into many millions.

The Bill recognises this problem by allowing a so-called *de minimis* rule of 10% by volume, although it is unclear what is meant by volume. Is it the volume of the item, including the volume in the inaccessible interior of, say, a hollow statuette or is it the volume of the silver and ivory that the outer casing of the object is made from? Who is to judge—and indeed how—whether the ivory is 10% or above or below without removing the ivory and measuring its height, width and depth? Measuring the amount of wood, let alone the amount of ivory inlay in, say, a chest of drawers is not easy because of the construction. Even with a humble fish knife and fork set, the handle may be ivory, but it is likely to be a thin tube of ivory slid over a metal shank, so the ivory content may appear to be above 10% but in reality may be well below and so qualify for the *de minimis* exemption.

Indeed, is the supposed ivory ivory at all? Ivory was always an expensive material, so for cheaper items, particular for household use, bone from domestic animals was substituted for ivory. Particularly with small items, it is very hard to tell the difference because the bone was chosen deliberately and with great care to look like ivory. Is my granny's set of silver-plated fish knives, probably given to her on her wedding in 1911, ivory-handled, or are the handles made of bone chosen to look like ivory? It would take an expert in ivory to tell, and that expertise is not likely to be available to the police, the enforcement officers charged with raiding auctioneers or antique dealers.

The Bill says that items with less than 10% ivory by volume can be sold, but to be sold they have to be registered. We will need to explore in Committee how

[LORD CARRINGTON OF FULHAM]

the registration will work. Whoever is charged with keeping the registry will have a major database problem, given the high number of items that potentially will need to be registered. To work, it will also have to be a low-cost registration process. I have a silver-plated coffee pot with ivory heat insulators in the handle, so that is well below 10% by volume. It is of little monetary value but considerable sentimental value because it was my great-grandfather's, probably a wedding present from around 1880. Its value on the market would be £50 to £100 if I was lucky. So if the registration cost is £5, say, that might allow it to be sold, but if the cost is £25 then the coffee pot would end up in landfill, which would be a shame because it is quite attractive and someone might love to use it in years to come. More seriously, there are also implications for inheritance tax. If someone more fortunate than me has a valuable item that is more than 10% ivory, and assuming that it forms part of an estate that includes a house, taking the total over the inheritance tax threshold, the item containing ivory would have to be valued for probate. Since it could not be sold, I assume that HMRC would be happy to assign it a nil value—unless HMRC's intention is that items containing ivory will be exempt from inheritance tax.

There is another problem with the register. As I understand it, the intention is that each item of less than 10% ivory will be given a certificate saying that it is registered and can be sold. So my granny's fish knives wedding present and my great-grandfather's coffee pot will have just such a certificate, assuming that the ivory content is less than 10%, as will many thousands of other similar items. These items were mass produced. There are many identical coffee pots, fish knives and forks around. If they were silver, they would have a hallmark that would allow them to be uniquely identified, but they are not; they are silver-plated and so have no distinguishing features from the same anonymous manufacturer's mass-produced similar items. So the certificate of registration will inevitably find it hard to uniquely identify my granny's wedding present. In unscrupulous hands, this means that it would be possible to forge certificates or to duplicate them electronically, so making enforcement of the ban by the police impossible. I am sure that we will explore these issues in considerable detail in Committee and on Report.

Coming back to whether the Bill will achieve its objective, which is to stop the slaughter of elephants and the carving of new ivory for sale, my right honourable friend Mr Gove believes that the UK will set an example that the rest of the world will follow and that those countries that currently fuel the demand for new ivory carvings will clamp down on their domestic trade in ivory. I hope they do, although the evidence is that the partial ban in China has only moved the carving of ivory into neighbouring countries and the sale of new ivory has continued, although more discreetly.

However, what effect will the ban have in the UK on the sale of antique ivory, and on having new ivory and passing it off as old? It is unlikely that anyone will try to carve new ivory to look like my granny's fish knives, but then, they never would have done, as there is no value in doing so. The only value will be in

forging new ivory carvings that look like antique museum-quality ivory carvings, which can then be sold. If a faked modern carving passes the vetting, its value will become very large outside the UK—an attractive proposition to criminals.

On the plus side, the Bill will stop the sale of ivory in the UK on eBay, particularly modern ivory trinkets, where perhaps the real problem of new ivory carving lies. But that trade could easily be stopped by much simpler legislation, even if it is not already illegal under existing laws, which it almost certainly is.

Since the Bill already accepts that a vetting panel can identify old ivory from new for the museum exemption and, indeed, would have to for registration purposes, I suggest it would be simpler to extend that to a general licensing system, so that antique ivory can be sold only through authorised dealers and auction houses which can demonstrate to a panel of experts their competence in identifying old from new ivory. Again, we may want to explore this in Committee.

In summary, this is a very worthy but complex Bill which will be hard to enforce and which the police will be unlikely to have the resources to enforce. It will lead to the destruction of many historic antiques, arbitrarily stripping the value from items currently legally owned by voters, and encourage the faking of high-value, museum-quality ivory carvings. All this when there are simpler and more effective ways of achieving the laudable aims of the Bill. In other words, this Bill has all the potential for being another Dangerous Dogs Act. For all its virtue signalling and gesture politics, it will fail to save the life of one single elephant currently roaming the African veldt.

5.11 pm

**Lord Berkeley of Knighton (CB):** My Lords, I want to bring to the Minster's attention some specific concerns on behalf of the musical community. I will focus on comments already touched on by the noble Lord, Lord Clement-Jones, the noble Baroness, Lady Quin, and just now the noble Lord, Lord Carrington of Fulham. In passing, I pay tribute to the majestic trumpeting of the noble Lord, Lord Hague, on behalf of the African elephant, but I am afraid that I will focus more on string instruments than trumpets.

Before I do, I must say emphatically that I have no doubt that every member of the musical community is entirely in sympathy with and strongly supports the overriding aims of the Government's Bill, as do I. However, I have received representation from two very distinguished musicians in particular: the ex-director of the Royal Academy of Music, Sir Curtis Price, and the present director, Jonathan Freeman-Attwood. They focused on young musicians and students, so what follows comes with much academic muscle. Furthermore, we have received expert advice from Peter Beare of Beare's, the leading maker, repairer and dealer of string instruments, and violins in particular. He has been in touch with Defra for several years but says that just as we seemed to be getting somewhere with the department, the Bill could present a potential setback. The ban could cause real hardship for professional string players, especially young ones and students.

The proposed UK ivory ban has the potential to make life extremely difficult and expensive for almost all violinists, violists and cellists. Beare says that Defra has been extremely helpful in providing an exemption which will cover most of the historic instruments and, perhaps more relevant to most players, their bows. However, there are a few problems. Everyone will need to obtain an exemption certificate from the department before they can apply for a CITES permit that will allow them to sell anything—such as most bows—that has an ivory part, however small. They will be able to obtain these certificates only if they can provide proof that the ivory was used before 1975, which could be difficult in many cases, especially for an 18-year-old student. No bows made after 1975, the date when Asian elephants were listed, will be allowed to be sold, even though the African ivory used for bows was not listed until 1990. As I say, this will particularly hurt younger musicians in the pocket. What are they to do with those dates between 1975 and 1990? It is also proposed that mammoth ivory, extinct and therefore not listed, might be added to the ban. It may astonish noble Lords, as it astonished me, to hear that mammoth has been used as the only suitable replacement by the trade since the 1990s, both on new bows and in restoration work. This potential ban could exacerbate the problem.

Beare suggests that a total, paperwork-free exemption—for example, 5 gram *de minimis*—for ivory of any sort on bows might be possible. A violin bow face weighs less than 1 gram and a cello bow face about 2 grams. We are talking about tiny amounts. I asked Peter Beare this morning if any other material could be used for new bows and repairs, and he said that metal had been tried but that no material was as good as ivory. However, we are talking about a tiny amount, sourced only ever from elephants who had died of old age or the excavated remains of mammoths. Is it not rather wonderful that the remains of old animals who have led a full and complete life should then sing their way to a form of musical immortality in the hands of young musicians?

5.16 pm

**Baroness Chalker of Wallasey (Con):** My Lords, after some of the recent speeches on this Bill, I hesitate to make my contribution, which brings us back to the reason we are all here. There is a very real problem. More than three decades ago, I saw the effect on an elephant of having its tusk removed. Having seen that, one has to say that there must be a way to protect these animals—and there must be more than the Ivory Bill. That is the first thing that I want to say. That was referred to by an earlier speaker in this debate, who spoke of the need for development money to be spent in those villages where elephants trample down the shambas and the livelihoods of poorly educated persons are often ruined by stampeding elephants. That is no excuse for the Bill not to take its place on our statute book. I was very interested in the comments made on other rare—or not so rare animals—which become ever rarer, because there is a need, as was said in another place, to look at how we might extend the sort of protection that we consider by means of this Bill to other species.

As noble Lords will know, I have spent much of the last 40 years working on matters African, and in that time I have seen how important animals, particularly elephants, are to tourism and the building up of business in African and Asian countries. I believe that the Bill is balanced because, in its exemptions, it looks to protect rightfully and legitimately held ivory but, at the same time, it helps to bring about a cessation of the ivory poaching going on in so many different ways and in so many different parts of Africa and, indeed, some parts of Asia. It is always a surprise to me to find out how bad the degradation of elephant populations is.

I have spent a little while pursuing the problems of the Niassa province in the north of Mozambique. Anyone who has any understanding of that province will know that it is very poor, very rugged and under pressure from those in the Far East who would buy the ivory. They work through every imaginable sort of illegal trade in east Africa and, to some extent, in southern Africa. The countries are seeking to train and I have always been in awe of the work done by the British Army, under a Defra grant, to help these countries learn to track poachers and prevent them taking the best of an elephant for illicit purposes.

We need a framework to stop the sale of illicit ivory. We may not have got every detail right in the Bill as currently drafted. I was reminded of the potential for this in the speeches by my noble friend Lord Carrington of Fulham and other noble Lords. However, even if we have not got it 100% right yet, we are on the way to putting right something that has been wrong for far too long. I hope the Minister will be able to respond on the question of extending the thinking of the Bill to other endangered species. As someone who spends a lot of recreation time among animals in the bush, I believe that is increasingly important. I cannot underline more strongly the importance of stopping the poaching that is going on. It is highly organised—something that has not been discussed so far—by a wide variety of individuals who are also involved in human and drug trafficking. They do not know any of the boundaries to illegal acts. When the Bill is law, and we have strengthened the capacity of African and Asian countries to protect their elephants and other wildlife, we will also get an enormous amount of information about other illicit trade. That is not the purpose of the Bill, but it is concomitant with it to understand how these organisations work.

Some noble Lords will know the Selous-Niassa corridor, down from Tanzania into Mozambique. It is, sadly, almost unpoliced, and is full of poachers organised from both sides of the Tanzania-Mozambique border, with a lot of Far Eastern planning behind the removal of elephant tusks. There are also problems with the storage of previously found elephant tusks: most of those taken over the last 10 years are still hidden away. That is another aspect of the work anti-poaching squads will be trying to do in many African countries. It may sound as if we are only in favour of the elephant. No, we are not: we are in favour of the heritage of these countries, which have many wild animals attracting an income they would not otherwise have. My noble friend the Minister gave an excellent introduction to the Bill. Will he discuss with other departments what more we can do to help countries

[BARONESS CHALKER OF WALLASEY]

protect their own elephants and to help, through development assistance, villages that can be greatly damaged by marauding elephants, as I have seen on many occasions?

5.24 pm

**Lord Jones of Cheltenham (LD):** My Lords, I welcome this Bill to ban dealing in ivory. It is good that the UK is one of the leading countries legislating in the war against elephant poaching, along with China, Hong Kong and, possibly, the USA. I say possibly because it was reported recently that the US President's wildlife board will permit wildlife trophies to be brought back to America. A young person told me that if this is true, we may have to change the song "Nellie the Elephant" to remove the words "Trump, trump, trump".

We are in the midst of a global poaching crisis, which threatens decades of conservation successes as well as the survival of many species: rhinos, lions, tigers, leopards, cheetahs, elephants and, as we have heard today, hippos and pangolins. The illegal wildlife trade is estimated to be the fourth largest transnational illegal trade, after narcotics, counterfeiting and human trafficking, and it is worth up to £19 billion a year.

There are two elements to the problem: the market for ivory, and poaching. The big market for ivory was China, along with Vietnam, Thailand and Indonesia. China is now banning trade in ivory, or it says it is, but elephant populations continue to fall due to illegal killing and other human activities, notably loss of habitat, while seizures of large-scale illegal ivory shipments were at record highs in 2016. In east Africa, where elephant populations have nearly halved in a decade, illegal killing has dropped back to pre-2008 levels, and in southern Africa elephant numbers are stable or increasing. However, in central Africa illegal killing remains high.

Education remains key. I read a survey some time ago which revealed that three-quarters of people in east Asia believe that ivory is a mineral. Documentaries such as those made by Sir David Attenborough and others should be distributed worldwide, particularly to schools, so that the next generation will appreciate better that ivory comes from dead elephants and that wildlife is precious only when it is alive. If the market could be eradicated, poaching would stop, because there would be no point.

However, in the meantime, steps must be taken in those countries where poaching occurs by helping the wildlife wardens to do their job. There needs to be a tangible reward for information on poachers and their whereabouts. When park rangers, game wardens and other law enforcement agencies receive intelligence on poachers, they need to act and need training and equipping to meet the task. This costs money and a long-term commitment, although in reality the finances are marginal in global terms.

I am not in favour of the death penalty, but to stop poaching it may be necessary to eradicate a few poachers until the message sinks in that poachers are effectively on licence all day, every day, of every year, from now on. Botswana's ministry of wildlife and tourism has a

policy of zero tolerance: it does not negotiate with poachers. They are told to lay down their weapons, and if they resist, they do not resist for long.

In some countries, poachers with machine guns use helicopters in their murky exploits. They shoot elephants and rhinos, land, take the ivory or horns and take off again. This is not random poaching; as the noble Baroness, Lady Chalker, said, it is highly financed organised crime. There is now hard evidence that these helicopter missions are linked to terrorism, drug money laundering and arms smuggling. They kill for ivory to fund terrorist activity or drug activity elsewhere in the world.

I favour the bazooka option for the helicopter raids. It needs only a few of these aircraft to be blasted out of the sky to ram home the message that the poachers are not going to win. It follows, therefore, that declaring war on terrorists and terrorism by removing sources of income extends to eliminating the poachers, and this could most usefully be tasked and funded from anti-terrorism budgets.

Our Government, to their credit, have ring-fenced foreign aid. It is about time we spent more of that budget on crushing the four linked crimes of terrorism, gun running, drug money laundering and wildlife poaching, perhaps using the fees for exemption certificates being brought in by this Bill. I note that we are sending more troops to Afghanistan. Perhaps they could be offered some R&R when they return, by training more wildlife wardens in areas where elephant poaching goes on. A few British soldiers armed with portable plastic bazookas should do the trick.

One shining example of where elephant populations are increasing is Botswana; I draw attention to my declared interest in that country. Botswana's rulers pay attention to, and love, their wildlife. The country's first President, Seretse Khama, and successive Presidents, knew and know the value of wildlife—not for its ivory and skins, but to attract visitors from around the world to see these magnificent creatures in their natural habitat. I understand that, should noble Lords wish to have elephants on their estates, Botswana will allow as many as you like free of charge; you just need to arrange the transport.

I should like to end with this personal experience. A few years ago, I was on a boat on the River Chobe near Kasane in northern Botswana. In the distance, I could see a large, dark object in the river; it was a very large elephant. As we got closer, I asked the guide why the elephant was there. "She is dying", he said. "She is in the water to keep cool; she is the matriarch". All around, there were hundreds, maybe thousands, of elephants of all shapes and sizes. A few weeks later, I went back to ask what had happened to the elephant. I was told that she had died, that the wildlife wardens had dragged her body on to the river bank and removed the tusks—that is what they do with dead elephants in Botswana; the Government take control of the ivory. Then, for hour upon hour, elephants had filed past her in an orderly fashion, touching her body with their trunks; they were her family, paying their respects.

Elephants are amazingly intelligent creatures with feelings, just like humans. In my view, they are far more intelligent than poachers, the organisers of poaching,



those involved in the ivory trade and, indeed, the end consumers. Bad humans have caused the current crisis. It is now up to good humans to ensure the species survives by eradicating once and for all the trade in ivory, which has led to the horrible and indefensible crime of poaching. This Bill is one step along that road, and I welcome it.

5.32 pm

**Lord Cormack (Con):** My Lords, the noble Lord, Lord Jones of Cheltenham, ended on a moving note but it was a remarkably non-pacifist speech before then and I shall think of him in future as “Bazooka Jones”. I was getting rather depressed with this debate during the first six speeches. It did not really turn into a debate until my noble friend Lord Lingfield inserted Disraeli’s paper knife. From then on there has been a degree of balance and real interest in the debate.

There is unanimity in your Lordships’ House about the nobility of the elephant, the necessity to preserve the elephant, and the evil of those who indulge in poaching and make nefarious gains as a result of illicit trade. On all this there is unanimity, and I subscribe to it utterly and totally. There was not a word of the speech of my noble friend Lord Selkirk on elephants with which I did not agree wholeheartedly. However, it is not as simple as that.

I am reminded of the famous instance when, shortly after he became king, Edward VIII said when visiting the Welsh valleys, “Something must be done”. The “something must be done” syndrome is not necessarily the begetter of good legislation. The legislation before your Lordships’ House is well intentioned but flawed. It is not just the road to hell that is paved with good intentions.

The noble Baroness, Lady Miller of Chilthorne Domer—I think that I have the territorial designation right—spoke very passionately about species threatened by the demolition of rainforests. I was very moved by the recent programme in which Her Majesty and David Attenborough walked through the gardens of Buckingham Palace talking about the Queen’s great Commonwealth forest programme, and I agreed with all of that. I remember when the future of the rainforests was debated here, in another place and elsewhere, and I also remember the late Tam Dalyell tackling the King of Spain on a visit to Madrid in 1989, which I had the privilege of leading, but at no stage in that debate did people suggest that in order to preserve the rainforests we should ban the sale of mahogany furniture made in the 18th century. There is an analogy here.

Of course I want to see online sales totally banned and of course I want to see the illicit trade in ivory come to an end, but I also have an interest to declare not just in the heritage of Africa but in the heritage of our country and of Europe. I want to draw attention to the extraordinary importance of many of the finest works of art which were crafted in Europe from the Middle Ages onwards. I think of crucifixes in cathedrals around this continent; I think of small, hand-held devotional figures of the Virgin Mary made in their thousands in Dieppe in the 17th and 18th centuries; and I think too of all the furniture adorned, although not in an extravagant way, with ivory from the 16th and 17th centuries onwards. This is part of the warp and

weft of our civilisation and our history, and, although it is not the Minister’s intention, in this Bill we are in danger of trashing much of our history.

My noble friends Lord de Mauley and Lord Carrington of Fulham both gave examples and instances of how difficult it will be to measure the 10% or, in the case of musical instruments, the 20%. This will lead to a bureaucratic minefield if we are not careful. How many elephants will be saved by the rigorous application of these rules and regulations, and how many extinct mammoths—extinct for millennia—will be brought back by musicians having mammoth ivory in their instruments? We have to get this in perspective but I fear that the Bill does not do that.

I am delighted that there is an exemption for miniatures. Much of the provincial as well as the national history of our country is told in miniature paintings. You can go to country house after country house, many of them in the possession of the National Trust, and see miniatures of family members who played an enormous part in that particular locality two or three centuries ago.

I wonder how many noble Lords have read Edmund de Waal’s fascinating book, published about four years ago, *The Hare with Amber Eyes*. It was a moving account of a collection of Japanese netsuke—those little toggles that the Japanese were so wonderfully accomplished in making. How much ivory is involved? A tiny bit, and yet they are not encompassed by this. How many would qualify as objects of great artistic and cultural importance? Some, undoubtedly, but the majority not. Yet some people have made it their life’s work to collect them, entirely legitimately and properly, and even a modest collection can be worth tens of thousands of pounds. Do we really want to support a Bill that sequesters private property in that way and destroys the nest egg of the teacher or the doctor who has collected over the years? That applies particularly to the more domestic things. One of my noble friends mentioned theatre tickets, and there were ivory race tickets too. They are objects of no great beauty and intrinsically of no great value, and yet they help to tell the story of the social history of our country in the 18th century. Are we really saying that the teacher I once met, on a very modest income, who had amassed a significant collection of these things, can keep them as their property or can give them away, but cannot sell them to realise on them to augment their pension?

We are entering deep waters here and it is not helpful for this House to approve legislation, the consequences of which have not been fully thought through. Of course we must do everything we can do deal with poaching; of course we must help those countries in Africa that need help; of course we must follow the advice of the noble Lord, Lord Jones, and my noble friend Lady Chalker and others. But do we really need a Bill this long in this detail, with all its powers for the invasion of privacy, searching out people who have acquired things entirely legitimately and treating them as if they are criminals? That is wrong and it is not in the spirit of our country.

Somebody talked about museum quality. But what is museum quality for the Victoria and Albert Museum here in London is not necessarily the same as museum

[LORD CORMACK]

quality in the city in which I am privileged to live, Lincoln, to which the noble Lord, Lord Boateng, came about 18 months ago and delivered a splendid talk. There are things that we would wish to have in our museum, relating to Lincolnshire families and to Lincolnshire people, that would not be of the remotest interest to the V&A. It is subjective. I believe that, when this Bill goes to Committee, we will have to look at these points very carefully.

Do we really have to boast that our regime is stricter than almost any other regime in the world? In France—where they actually did win the World Cup—they do it with a little more finesse. Of course, online sales are banned completely, dealers have to be registered and certain things have to have certificates, but it could be done in a gentler way. We do not need this complex, draconian legislation. We need to put all our emphasis on the preservation of the living elephants and those that will live in the future—and other species too. But that does not mean that we have to cast doubts on those wonderful walrus ivory chess men from the Isle of Lewis, which are one of the great treasures of the British Museum. Let us get this in perspective and try to improve this Bill, which has an admirable aim but which is sadly deficient in many particulars.

5.45 pm

**Lord Inglewood (Non-Affl):** My Lords, in my contribution to this Second Reading debate I will concentrate on the relationship between ivory, works of art, conservation and the international art market. I declare my interests: I am president of the British Art Market Federation, which is a national umbrella body for the art trade in this country, and I was chairman of the Reviewing Committee on the Export of Works of Art and Objects of Cultural Interest for 10 years. I am also the owner of a few ivory objects, of which only two—an early 19th-century ebony table, which is inlaid, and a Broadwood piano almost identical to the one owned by Beethoven—have any significant value as far as I know. I also have an interest in conservation generally, being president of the Cumbria Wildlife Trust.

Ivory is an extraordinary and romantic substance, which in days gone by was believed to have almost magical properties often associated with royalty. After all, the description of King Solomon's throne in the books of Kings and Chronicles is witness to that, while for example, the throne of Maximianus in Ravenna, which dates from about 550, is, as anyone who has ever seen it knows, a significant and supremely moving historic and artistic object. Indeed, more recently, the ivory throne of Travancore in the Royal Collection was one of the stars of the Great Exhibition of 1851. As we all know, ivory has over the years been used for works of art of very real significance. However, what is interesting to me is that this manifests itself in two rather different ways: the object might be made of ivory, or it may be ornamented and/or embellished with ivory. The two are rather different.

As everyone speaking in this debate knows, there is a very real danger that elephants might become extinct because of the illegal activities of poachers feeding the

eastern Asian market, where intricate ivory carvings are much esteemed and valued. Let us be clear: there are a certain number of these still in the United Kingdom because of our imperial past, which I understand are being exported quickly now in anticipation of the imminent ban. But we should be countering the demand of the Asian market, which is fuelled by a taste that to us seems somewhat alien and is reinforced by money—sometimes very large amounts of money.

While it could be argued that a universal ban on the trade in worked and raw ivory may not necessarily be the optimum way of dealing with this problem, it is no part of my case to argue that now. Rather, in the context of the Bill, I endorse the proposition that a ban with certain exemptions is the right way forward, since a universal ban would put us on a par with the iconoclasts of Byzantium, the extreme 17th-century Protestant reformers and today's fundamental iconoclastic Islam. For that reason, I endorse the principles contained in Clauses 2, 6 and 9 of the Bill so long as they are actually implemented in accord with common sense and logic. I have certain quibbles about the details in respect of that.

I return to the issue of east Asian taste, which, as I have already commented, is for carved ivory which comes from chunks of ivory. As I said, much ivory here in the United Kingdom is essentially decorative and comprises inlay, marquetry and such things, which is generally but not absolutely invariably western taste. This is a form of ivory for which demand from east Asia is more or less non-existent because it is used in thin, shard-like fragments and tiny knobs for drawer handles and so on. Indeed, were this not so, so-called "brown furniture"—the market for which is currently depreciated—would be being acquired by dealers at rock-bottom prices, the ivory removed for onward sale, and the tropical hardwoods from which the furniture was made cast aside.

But this does not appear to be happening and suggests—as the noble Baroness, Lady Quin, and the noble Lord, Lord Berkeley, said in respect of musical instruments—that this material is not part of the international trade in ivory which we all want to stifle. As a generalisation, exemptions relating to Clause 8—musical instruments—and Clause 7—pre-1975 items containing minimal quantities of ivory—concern items that are not in general desirable to the Asiatic market. Having said that, I am pleased because it is right that we have these exemptions, although there is a case for saying that the *de minimis* threshold is somewhat niggardly and outside international norms.

What to me is perverse in all these circumstances is the almost Kafkaesque process of registration outlined in Clause 10. It is particularly so in the case of Clause 7 items, where the cost of registration may well exceed the value of the item in question and the ivory elements of which are of little or no interest to the Asian market—which is, after all, the root cause of the elephant's plight.

In the light of the consultation undertaken by the British Art Market Federation, and of the private researches I have carried out with local auctioneers I know in the north of England, it is well nigh certain that substantial quantities of antique items of considerable

quality and age will end up at the tip because of a combination of the cost and trouble of registration. These items are not doing harm to anyone or anything, and simply do not merit such bureaucracy or treatment. The reality is that much or probably most of what comes on to the market of this kind now is the result of deceased estates and downsizing. The bureaucracy involved in registration is so onerous in one way or another that a fair amount of ivory and tropical hardwood is going to end up at the tip. Gestures of this kind, it seems to me, are not going to save a single elephant or preserve a single tree in the rainforest. As drafted, this measure looks simply silly, philistine and not properly thought through.

I turn finally to what has been touched on by a number of other speakers: what I might call the enforcement provisions, which I have discussed with my noble friend Lady Vere and her officials together with representatives of the British Art Market Federation and lawyers. As drafted, they appear to single out this sector for especially oppressive treatment, a view shared by a number of eminent lawyers. However, when we met she kindly agreed to review this point and engage further with it at a later stage of the Bill—something that I trust my noble friend can confirm later from the Dispatch Box.

This Bill merits general support but with a little tweaking, it could become excellent legislation which I could wholeheartedly endorse.

5.53 pm

**Baroness Flather (CB):** My Lords, everyone who has spoken in the debate supports the Bill, and it really is motherhood and apple pie, or whatever they say. We cannot not support the Bill, because it is long overdue and ought to be supported. However, I want to share a little of my heritage as regards elephants because I do not think that anyone else who has spoken comes from an area where they grew up with them. Perhaps some other noble Lords did, I do not know, but they have not said so.

I come from India, where elephants are an integral part of our lives. They do not just roam around parks, they are trained to work. There are elephant farms where they work, but you cannot do that with African elephants. Indian elephants are kept in temples where they are an integral part of temple life. Everyone who goes to a temple is blessed by an elephant for one or two rupees. That is the kind of thing we grew up with. In India, elephants are treated with reverence and kindness. They are not considered to be just those lolloping animals who can be got rid of any time you like.

I do not know how much poaching goes on in India, but Hindu Indians are mostly very conscious of the elephant's qualities and what the elephant stands for. We have a god with an elephant head who is always supposed to do good. Any festival or any such thing must start with a prayer to him first. Elephants are very much a part of our lives. From my life in India, I remember that elephants were not considered animals to be poached, killed and got rid of. I do not know how bad things have become since then.

My husband and I bought our first two ivory items in India in 1976. We bought them from a government shop. Even then, it was not a good idea to buy ivory from anywhere but government shops. They gave us a certificate to say that the items were from a government shop and did not come from poached ivory or an elephant that has been killed. We brought the items to England and declared them. With the certificates, we were allowed to take them home, but even at that time they wanted to know where the ivory items had come from, where we had bought them and whether they were all right.

I am trying to say that awareness of ivory use and what it may cause has been going on for a long time—it is just that the controls have never been properly enforced. There has not been anything strict enough to make a big difference. I hope that this Bill will make a big difference and that people will become conscious of this issue. The noble Lord, Lord Hague, said that we must stop people wanting ivory. We cannot do that. I will always want ivory, but I will never buy it again, even without a Bill. Once you know what it can lead to, you change your view, but that does not mean that you can stop liking something that you have always liked and enjoyed. I hope that the Bill works and things change. We went to Kenya in 1980. At that time, they were talking about culling the elephants because there were so many of them in the parks that they did not have enough food. That seemed so strange; perhaps I misunderstood, but I do not think that I did. They said, “We have too many elephants”. Clearly things have changed since then.

I think that the noble Lord, Lord Gardiner, talked about previous generations. I think that they did not need to worry as much as we do because the population has increased in leaps and bounds. People do not like to talk about population, but the population of Africa and India is going up and up. There are more poor people who have little access to food and the things that they need to live. What do they see? An elephant. To them, it is not a great beautiful beast; it is food. We have to understand that we are in a different ball game now because there are so many more people in the world than before. It is quite depressing to think that so many things will change. We talk about rainforests, forests and habitats, which are going all the time. It is said that in the Amazon jungle, an area the size of a town is destroyed and burned for agriculture every day. We are living in a world that, one way or another, we are destroying every day. It is obviously essential to do whatever we can to preserve what we still have.

The noble Lord, Lord Grantchester, talked about the other species whose tusks or teeth can be used. I saw that the Labour Party put forward an amendment in the other place that was lost. I hope that it will come again and not be lost in this House. When people cannot get ivory tusks, they will go for whatever else they can get, so let us give this legislation a fair wind and see what happens. Even now, we may have to stop the selling of ivory of any kind, even if it has a certificate, because everything will eventually age to the point where a certificate can be created. Let us hope that we are on the right road.

6 pm

**Lord Crathorne (Con):** My Lords, the Government's aim to reduce the poaching of elephants for their tusks is an entirely laudable one. I have been lucky enough to see these magnificent animals in the wild in Botswana and it is one of the great experiences of my life; a world without elephants is unthinkable.

The concern about this well-intentioned Bill is that it is unlikely to deter poachers, and this point has been made several times. A spokesman for TRAFFIC—the leading research organisation into the trade in endangered species—has stated that it is the booming Asian market that drives the poachers, and to a much lesser extent the western European market. The headline of the current issue of the *Art Newspaper* states:

“The UK's ban on ivory sales will not protect the elephants”.

I think we are all totally in favour of protecting elephants, so we must look at some of the Bill's provisions to see if we can suggest minor improvements. The Defra report, which the Minister quoted, says:

“The Ivory Bill will be the toughest in Europe and amongst the toughest in the world. It will prevent the poaching of elephants by introducing a total ban”.

It will be completely brilliant if that is so, but it simply will not be.

A question was raised by my noble friend Lord De Mauley about the owners of ivory items. First, there is no compensation if you own ivory and an awful lot of people will lose out financially—in some cases, quite substantially. Then there is the rather complicated question of whether you are breaking the law or not. It will not be that difficult to be criminalised, quite unknowingly. My noble friend Lord De Mauley mentioned the example of a bring-and-buy sale, where somebody is selling something that contravenes the law. The Bill is pretty draconian; you can go to prison for up to five years, so there is quite a substantial risk if you get things wrong. I thought France had done rather well with this, through a rather enlightened approach, by permitting the sale within the EU of all ivory carved before a date in 1947, which was accepted by the Convention on International Trade in Endangered Species. There, you merely notify the Government of the sale.

We have heard about the exemptions in the Bill and I have a question for the Minister. It seems slightly odd to have 10% ivory for one exemption and 20% for another. I wonder whether it could be a similar figure for both—I hope for 20% rather than 10%. My noble friend Lord Carrington of Fulham explained the complications of this and the worry about the enormous number of people involved in trying to sort this out.

We then have items of,

“outstandingly high artistic, cultural or historical value”—

the rarest and most important item of their type. Again, that is pretty difficult to sort out. Having spent part of my life working with experts in various fields, I know that they do not really agree. To get someone to say, “This is of outstandingly high artistic value”, will be quite a complicated business. Just “high artistic value” might be better than “outstandingly high”,

because there will be so many disagreements about what is outstandingly high and it is very difficult to judge.

Something in the Bill surprised me slightly. My noble friend Lord Cormack mentioned religious artefacts. I would have thought that “outstandingly high artistic, cultural, historical or religious artefacts” would be better in the Bill. For thousands of years religious artefacts were made from ivory and have been and are much venerated. That is something we should look at.

The date of 1918 has been set in the Bill. It is slightly arbitrary, but I imagine that it is simply because it is 100 years ago. Items produced after that cannot be sold except for limited exceptions. Again, my noble friend Lord Carrington of Fulham mentioned art deco pieces. Think of the quite amazingly beautiful art deco pieces with lots of ivory in them. At a stroke they will become valueless. Indeed, people collect those things. There will be people with collections that will become valueless. I suppose they will be able to send them abroad for sale. Paris will be the beneficiary of that. That date seems quite arbitrary. Could we not extend it to 1947? That would cover much more ground.

It was in around 1918 that Sir Victor Sassoon was forming his superb collection of more than 500 Chinese ivories. The collection was given to the British Museum by the Sir Victor Sassoon Chinese Ivories Trust. I was at the British Museum on 27 June when the director, Hartwig Fischer, launched the museum's most recent review, which contained a lot of information about the gift of ivories. To my great surprise, in the question and answer period one journalist, I think from the *Times*, asked the director whether it was appropriate for the museum to accept a gift of items of ivory at this sensitive time. The implication in the way the question was asked was that destroying them might be a better option. I cannot imagine a better repository for those extraordinary items, created centuries ago. They will be cared for in the British Museum. They will be seen by the public and available for scholars. I thought it sad that somebody felt it was wrong for fine items of ivory to end up in public collections. The director of course defended the acceptance of the gift, rightly adding that not accepting it would not save a single elephant's life today.

This morning, a group of 70 members of the All-Party Parliamentary Arts and Heritage Group visited the British Museum to see the Rodin exhibition. If any of your Lordships have not seen it, they ought to try to go. I mention that because I had a chance to talk to the director. He said he thought that one of the problems with the whole discussion about ivory is the non-separation of the old ivory created and carved many years ago, when there was a great abundance of elephants, from the poaching of ivory now and the sale and use of raw ivory supplying the Asian market.

I think the Bill is sadly unlikely to deter the poachers and the illicit raw ivory trade, but certainly anyone now contravening the Bill, when it becomes an Act, will be very severely dealt with: spending five years in prison is quite a threat. I look forward to hearing the Minister's reply and, in spite of some of our misgivings today, I hope the Bill will help ensure the survival of these absolutely magnificent animals.

6.10 pm

**Baroness Fookes (Con):** My Lords, unlike the noble Baroness, Lady Flather, I did not grow up knowing elephants, but I do have a vivid recollection of a safari trip I made many years ago—not at Treetops but somewhere similar, with a watering hole. We were told that the animals would probably come during the night, a bell would ring and if we wished we could get up to see them. The bell rang and I shot up—I was younger in those days—and one of the things that stood out for me, among the other animals coming, was a little family of elephants: two adults and two very frolicsome youngsters. In fact, they were behaving slightly badly and one of the elder elephants gave them a bit of a cuff—you know, “Just behave yourselves”. That has stayed with me for evermore and it reminded me of the story by the noble Lord, Lord Jones of Cheltenham, about the wonderful ending of that matriarchal elephant. I saw them young; he saw one very old. They are remarkable and something to be cherished and preserved.

I do not take the view of some of those in the debate who fear that the Bill, though well intentioned, really will not do any good. I thought that my noble friend the Minister made a very strong case for the good that the Bill could do, and he was ably and powerfully supported by my noble friends Lord Hague and Lady Chalker. They have an immense knowledge of Africa and have done a great deal and, if I have to choose between the doubters and those two, I am going to support my noble friends: they made very powerful cases indeed.

We have all been horrified by the number of elephants killed, but nobody has actually mentioned the suffering in their deaths. I suspect that the poachers are pretty vicious and I am quite sure that they are capable of bringing an animal down, not killing it completely and still hacking off its tusks. I do not really want to think about that too much, but it is something we should remember because it is all too likely to happen. I realise that the Bill, when it becomes an Act, will not do everything and I think there is a very important case for trying to encourage, perhaps through other departments, the value of providing alternative livelihoods for people in these countries. It will not affect the poachers, who are obviously after something far bigger and more vicious, but we should try to encourage in every way possible that the elephants and other wildlife should be seen as an economic advantage, through tourism and various other ways of using them to best advantage while we preserve them. I hope that my noble friend will look at that, although I realise that it goes far beyond the Bill.

I am also anxious that we should take pretty urgent steps to include ivory from other animals—rhinoceroses and so forth. We can see that if there is a market—and everybody keeps telling us that there is a market for ivory, particularly in the Far East—people will obviously go for alternatives to elephant ivory if it exists. Very often in this place we do not know all the unintended consequences of Bills that we pass, but we can be pretty sure that if we ban ivory from elephants people will look for alternatives. I hope my noble friend will

make full use of the ability in the Bill to act fast. I believe there are consultations going on, and I hope they will not take for ever because this is very important.

I have one other, slightly quirky point. As a former chairman of the Delegated Powers and Regulatory Reform Committee, I looked with interest at the departmental brief which the committee will be looking at between now and when the Bill comes back in Committee. I notice that there are at least five occasions when statutory guidance will be given by the Secretary of State and there is to be no parliamentary intervention. My antennae twitched slightly at that. No doubt this will be looked at it, and maybe I am worrying unduly, but delegated legislation often has a very important impact on a Bill and how it is to operate. I simply make that passing reference and hope it will be taken on board.

I listened with interest and some concern to those who are interested in the world of works of art, who spoke about the possible impact of the limited exemptions which will exist. That is not something I feel particularly confident about pontificating on, but I hope that during the passage of the Bill reasonable points can be made, perhaps in Committee, to deal with some of that. Broadly, I think the exemptions are right and provide a very good balance between banning all ivory products entirely and allowing exemptions. I look forward to more detailed progress, but in the meantime I warmly support the introduction of the Bill.

6.17 pm

**The Earl of Kinnoull (CB):** My Lords, it is a great pleasure to follow the noble Baroness, Lady Fookes, who made another compelling speech in this very interesting Second Reading of the important Bill before us. Like every noble Lord here this afternoon, I am wholly behind the central aim in the Bill of doing what we can to frustrate elephant poaching.

A few years ago, I was in the Selous in Tanzania. This area, the size of Switzerland, has no resident human population. On successive days our party saw a recently vacated poachers' camp and was charged by an elephant in rude health. Those two experiences very much stimulate my enthusiasm for the Bill's central aim. I declare my interests as set out in the register of the House: in particular, as chairman or trustee of three charities that run between them five museums; and, for reasons that will come later in my remarks, in respect of the insurance industry where I have had decades of experience of insuring heritage objects. I will confine my remarks to the exemption provisions in the Bill and to considering the positions of ordinary citizens, museums and insured parties.

On ordinary citizens, I was looking through the catalogue of a major regional auction house's fine furniture sale last week and noted that just over 10 items out of 400 or so had ivory inlay or other low-ivory content. Examples from the catalogue were a dressing-table mirror with four small ivory embellishments, a chest of drawers with ivory surrounds to the keyholes and a box with ivory inlay. The estimated prices for these objects were mainly below £200 and the lowest was £80. I visited our local antiques centre last weekend in

[THE EARL OF KINNOULL]

Perthshire and started looking around for objects with low-ivory content. They started at less than £10 and a substantial number of such objects was available.

I conclude, and I think everyone knows, that the total number of low-ivory-content objects in the UK is enormous. The Explanatory Notes refer to an online government registration website with alternative telephone and postal methods. These could be very busy. Could the Minister give some further detail about the registration system and its cost? I feel that getting this right, with particular emphasis on the low-ivory-content objects, is an important part of encouraging ordinary citizens to buy into the Bill, which involves the change in attitude that the noble Lord, Lord Hague of Richmond, who is not in his place, spoke of. If everyone is to ignore the registration, we will not change any attitudes and the Bill will have little effect.

I turn to museums. In my long experience, the buying and selling of solid-ivory objects is pretty rare. Indeed, in all my time on various boards, I can recall only one sale of a small number of ivory objects a few years ago, which was done because they were not core to the museum's collections and we needed some help with the roof. Far more common is the lending of objects for specific exhibitions. Again, in my experience the large majority of loans affected by the Bill concerned objects with low-ivory content. For many years, ivory inlay was a popular way of embellishing special items. The standard museum loan agreement does not normally share gate money, although occasionally it does. What is very common is to agree to share money from images sold, for example, from postcards. In addition, the lending institution may receive catalogues and other benefits, and will definitely receive invitations to opening receptions with glasses of champagne. Can the Minister therefore provide some comfort that such loan arrangements, including the sharing of gate money, would not constitute a hire under the Bill and therefore be an offence, and that nothing in the Bill is intended to interfere with current, ethically sound inter-museum lending practices?

I close with some insurance difficulties. The problem here is what happens following a theft. Under an insurance contract, the insurer pays the insured but then becomes the owner of the stolen object. An insured item of low-ivory content may or may not be registered and may or may not have been photographed. I am therefore concerned that the change in ownership under an insurance claim could be illegal, and thus no claim could be paid for an unregistered item. This would seem an undesirable result, given that I do not believe that the payment of such a claim could in any way detract from the Government's admirable central aim of frustrating elephant poaching. A solid-ivory object owned by a private client would not be insurable for theft. Would the Minister agree to meet to discuss whether a bona fide insurance payout should also be represented in the "Other exemptions" under the Bill, with whatever safeguards are suitable? In the meantime I, along with everyone else, wish this important Bill a speedy passage.

6.23 pm

**Earl Attlee (Con):** My Lords, I support the Bill for all the reasons that the Minister has skilfully put to the House, and I agree with everything that he said. So far as I am concerned, elephants win over business and wealth. As for the timing of the Bill, I too hope that we can get the Bill passed before the IWT conference in the autumn while at the same time giving the Bill the scrutiny that it deserves. My position on my own ivory is exactly the same as that of the Minister.

The noble Lord, Lord St John of Bletso, was the first speaker to make the very good point about online sales. As I read the Bill, a person who offers ivory online is caught by Clause 1. Can my noble friend the Minister confirm that the operator of an online platform is also caught by Clause 12, which prohibits the facilitation of the sale? The difficulty is that an online offer for sale can claim that the article is certified and exempted and therefore not caught by Clause 1, and the online platform operator can therefore claim that Clause 12 does not apply either. In Committee, the Minister will have to convince us that there is no loophole with online sales.

I will seek to tread cautiously, but I detect some vested interests at play. Of course it is vital that we look at this legislation with great care. It is interesting to note that when I recently opposed provisions in a government Bill that would ban the sale of certain deactivated firearms, I had almost no support from my Back-Bench colleagues apart from, ironically, my noble friend Lord Crathorne. However, that Act—as it is now—significantly reduced the value of many people's collections of deactivated firearms, as they could not be sold. In some cases, the loss was in excess of £1 million. Indeed, I was slightly affected to the extent of about £100. Fortunately, due to the good sense of the Home Office Ministers and officials involved, your Lordships' House passed amendments which, in time, should solve the problem.

In this debate, we now have several experienced Members of your Lordships' House quite properly expressing concerns about the loss of value to collectors and individuals. I have to say that in many cases the answer surely is to give the items away, not sell them. There is no need to discard the items, although I recently did so for a very small item. I hesitate to say this, but could this difference in interest be something to do with the relevant socioeconomic groups of those who collect deactivated firearms and those who collect antiques and ivory?

I have some concerns about the detail of the Bill. The first concerns inheritance tax. I declare an interest, as my family is winding up my late mother's estate, but the effect of the Bill is at the bottom end of negligible so far as it concerns IHT—I know IHT affects only certain socioeconomic groups. Does the Minister agree with my noble friend Lord Carrington that the correct probate value now for an item of ivory caught by the Bill is zero because it will not be possible to sell it in the future?

It must also surely be possible that IHT has recently been paid on a genuine ivory antique that the family concerned would never want to sell. However, with the passing of this Bill, even if they were in severe financial

distress, they could still not sell the item. It would be purely an ornament and not an asset, but nevertheless IHT had recently been paid on it. Is the Minister sure that this is a fair situation?

In principle, I have never been happy about civil penalties, except for matters such as motoring offences. Civil penalties are provided for in the Bill, and I share the concerns of my noble friend Lord De Mauley. The overall aim of the Bill is to reduce the international value of ivory in order to reduce the poaching of elephants. Once the Bill is passed, in reality no respectable person or business will sell ivory, and the desired effect will be achieved.

As I see it, three things can go wrong in terms of compliance. Perhaps two individuals might make a very small sale of ivory between themselves. If caught, a caution would be appropriate, or it could be dealt with summarily in the magistrates' court by means of a modest fine. If an individual is contemplating making a higher value sale than the magistrates' court, I suggest, is a good deterrent. In the case of a business illegally trading in ivory, that might be a matter for indictment that attracts unlimited fines, as noble Lords will be aware. Therefore, it is not clear to me why we need a civil penalties regime, and I fear the scenario outlined by my noble friend Lord De Mauley. I hope that my noble friend the Minister can either explain that this evening or perhaps write to me.

In conclusion, I support the Bill and will do so during future stages, while helpfully ensuring that the Bill does what it says on the tin.

6.30 pm

**Baroness Rawlings (Con):** My Lords, I declare my interest as a former president of the British Antique Dealers' Association. I am sure that your Lordships agree that we should all be extremely proud that the UK represents the largest art and antiques market in Europe and the second largest in the world. Through its specialist dealers and major auction houses, it offers a concentrated source of expertise and knowledge, unmatched anywhere in the world.

I warmly welcome the aims of the Bill and its desire to conserve elephant populations. The appalling slaughter of the African elephant in such large numbers in recent years is a matter of grave concern to us all. The Government should be proud of the action that they have already taken to tackle the illegal wildlife trade and protect elephants from being poached. This action includes expanded British military training in anti-poaching skills for African park rangers, a project with China to deliver training to African border forces, and additional funding for Interpol to increase its work with key nations in tracking shipments of ivory. As we have heard from many noble Lords this afternoon, we hosted the Illegal Wildlife Trade Conference four years ago, and another is due here in the autumn. I therefore think that we are selling ourselves a little short when we say that we are lagging behind other countries in our fight against elephant poaching.

It is recognised that China is the world's largest market for ivory, where it has been continuously imported as a raw material up until the end of last year. As recently as 2008, 62 tonnes of ivory tusks were released

from Africa and sold to China. Hong Kong's official stockpile of ivory in 2015 amounted to 78 tonnes. I mention these figures to provide context for the situation in the UK, where our market is not one of ivory as a commodity but of antiques, some of which happen to incorporate ivory.

It is on our cultural heritage that I really wish to reflect. I am fascinated by the evolution of mankind's cultural and artistic development, as seen through the monuments, works of art and domestic items that earlier generations have left behind. We have access today to many objects from earlier times that were created under conditions of which we would not now approve. It is inevitable that items created in earlier centuries will reflect the social, economic and political norms of their era. The most obvious example is books. The views espoused in some printed matter from the past might now be abhorrent to many, but we do not ban its sale. The people who read those books today are well able to interpret the opinions they contain in the context of the period in which they were written. I believe that we should take the same approach with old artefacts that incorporate ivory.

We recognise that the ivory found today in antique objects came historically from thousands of dead elephants, some of which died from natural causes and others, sadly, were killed for their tusks. But I believe the British public are all intelligent enough to understand that buying an antique that incorporates old ivory does not mean they approve of objects made from modern, poached ivory.

This contrasts enormously with the attitude of some Asian buyers. As we have heard, they have a culture of acquiring ivory for its own sake, regardless of age, and they generally do so in the form of solid ivory carvings, many sold by weight. It should also be noted that Asian buyers buy fewer western antiques; attempts to interest them in doing so have largely proved unsuccessful. The British Antique Dealers' Association has been trying for several years to garner more interest from Chinese buyers in items such as English antique furniture or silver, and it has proved an uphill struggle. In 2013, the European Fine Art Foundation, which runs the world's most significant art fair, in Maastricht, gave up its plans for a fair in Beijing.

The vast majority of western antiques containing ivory are not therefore exported to the Far East. Consequently, despite claims to the contrary, they do not contribute to the vast market for ivory carvings that exists in China, Hong Kong and other countries in Asia, such as Vietnam. There is not even the danger of such items being mixed in with the carvings on sale in the ivory shops of Hong Kong. When did anyone last spot a 19th-century English silver teapot with carved ivory handle sharing shelf space with rows of modern, cellophane-wrapped carved Buddhas?

The structure of the Bill provides a framework for measures to prevent modern ivory trinkets being offered for sale. Such trinkets include solid ivory tourist carvings that may have been acquired legally in the 1940s or 1950s but hold no real cultural significance, either for the people who made them or for mankind in general. However, I urge your Lordships to be aware that, as presently worded, the Bill will have a significant impact

[BARONESS RAWLINGS]

on the future of many culturally or historically important objects that do not meet the extremely limited exemption criteria, particularly items containing 10% or more ivory that fall foul of the Clause 2 criteria.

I will explain my concerns more precisely. The Bill allows people to continue to own any ivory items that do not qualify for those exemptions. It also lets owners give them away or pass them on to their beneficiaries on death. I realise that some of your Lordships may imagine that this would be sufficient to protect these items for future generations. I cannot, however, agree that these items will be protected. When the owners of prohibited cultural property die, their objects will not necessarily be wanted or appreciated by their remaining family members. Museums will not automatically accept every gift offered to them; they have neither the storage space nor the funds to look after them. Furthermore, museums may well be unwilling to accept artefacts already represented in their collections.

If the objects have no financial value, there will be no incentive for an indifferent or busy executor or beneficiary to bother to find a new owner. As my noble friend Lord De Mauley said, many items will be abandoned or thrown away. Even if not discarded, because they lack a resale value, there will be no financial incentive to spend money on having them restored or conserved for posterity. I am concerned not only for the artefacts themselves but for the preservation of examples of our social history. We should all remember that antiques have a big following in Britain, as the viewing figures for “Antiques Roadshow” show.

Although the Government have published an estimated cost to businesses, they have not attempted to quantify the cost to individuals of rendering their treasured antique possessions worthless. Dealers and auction houses are merely the conduit between one permanent owner and the next. For every item currently in a dealer’s stock or being handled by an auction house, there will be many more similar items held privately. The potential losses must be considerably larger to citizens than to businesses. Can the Minister therefore inform me whether the Government have attempted to compute the loss to the Exchequer arising from this measure, as it will undoubtedly make a dent in the tax take from both inheritance tax and capital gains tax?

We should also consider the works of art that emanate from cultures in other parts of the world, many of which have ended up in this country. Ivory has been regularly used in religious artefacts, as the noble Baroness, Lady Flather, mentioned, whether crucifixes or carvings of Hindu deities. If these religious objects end up discarded, would that not amount to a form of iconoclasm?

The use of ivory is prevalent, as we have heard, in Indian, Asian and African culture. Although we do not wish to encourage the purchase of modern-day ivory trinkets by people of the Far East, we cannot write off the figural carvings of high aesthetic appeal from the Ming dynasty, or the high-quality Guangzhou tribute pieces that were made for the Chinese imperial court. While introducing their ban on modern carving workshops, the Chinese themselves will continue to

recognise their own cultural inheritance by permitting auction sales of cultural relics. Is it our place to dismiss the culture of such a great civilisation in such a way?

The same may be said of Japanese culture. As my noble friend Lord Cormack said in his eloquent speech, you have only to read Edmund de Waal’s book *The Hare with Amber Eyes* to appreciate the lure of those masterpieces of the carver’s art in boxwood, porcelain, lacquer or ivory: the netsuke. How many netsuke made from ivory will be rendered valueless, as my noble friend said, while their wooden counterparts of similar artistic merit will continue to be sold?

It is normal for this House to ponder matters in a less hurried way than is sometimes the case in the other place. After this fascinating debate this afternoon, with so many interesting and different views, I hope that your Lordships will give careful thought to these concerns. Essentially, this is a good Bill which has cross-party support, but it could be improved by making certain that it creates the correct balance between recognising our cultural heritage and providing the framework for prohibiting the sale of modern-day ivory in Britain—and of course protecting the elephant.

I started by stressing the importance of and need for change. It would be perfectly possible to introduce effective amendments without delaying the Bill’s passage or in any way watering down the important message it sends out to other countries about the serious attitude we take to elephant poaching. We might all agree that we surely do not want to live in an ivory tower.

6.43 pm

**Baroness Bakewell of Hardington Mandeville (LD):** My Lords, this has been a most interesting and informative debate, and I thank the Minister for his comprehensive introduction. We have heard a number of arguments for and against a total ban on the sale of ivory in the UK. We on these Benches fully support the Bill. Unlike others, I am not an expert on this subject; like the noble Baroness, Lady Fookes, I fall into the category of a tourist who has enjoyed seeing elephants in Kenya.

I took part in the debate before Christmas on 21 December, and many of the arguments deployed then have been repeated here today. A great deal of thought has gone into the Bill and it has, as has been said, cross-party support both here and in the other place. Your Lordships will be pleased to know that I shall not go through it clause by clause, as that is for Committee.

Elephants, both African and Asian, are iconic species, gentle giants of two continents, the male of which has the great misfortune to have magnificent tusks, which are prized for their ability to be carved into objects of beauty. This has led to the elephant being butchered in large numbers. Currently 55 elephants are killed every day for their ivory, as the Minister said.

The poaching of elephant ivory will continue until its value is diminished to such an extent that it is worthless as a currency. The USA and China have closed their domestic ivory markets; however, this leaves Vietnam and other Asian countries continuing



to trade in ivory and the Vietnamese trade appears to be expanding. The UK must show the way by banning this trade and demonstrating to countries like Vietnam that ivory is not an economic currency; it should follow our example and ban its trade. I was very interested in the contribution of the noble Baroness, Lady Flather, regarding the Asian elephant and its place in the community.

Poaching is on the increase and the illegal wildlife trade has grown to such an extent that it is now, as we have heard, the fourth-largest transnational illegal trade, worth over £15 billion per year, as the noble Lord, Lord Grantchester, said. This trade drives corruption, threatens sustainable development and has been linked to organised crime, such as arms, drugs and human trafficking, as the noble Baroness, Lady Chalker of Wallasey, has indicated. It is big business. We can help by taking the value out of the market. We can help countries such as Uganda, Gabon and Botswana to successfully challenge and prevent poaching. I am grateful to the noble Lord, Lord Jones of Cheltenham, for his moving story about the death of the matriarchal elephant.

In Gabon alone, 80% of forest elephants have been taken by poachers, as the noble Lord, Lord Hague, so eloquently said. Assisting countries and communities where elephants live to share the space with these animals could also reap benefits. While the UK is not one of the countries actively involved in the illegal ivory trade, there is evidence that our legal market is being used to launder illegal ivory. As many noble Lords have mentioned, we must stand up and prevent this from happening. Tighter controls on our legal ivory trade must be implemented without delay. This Bill seeks to do just that and lays out the certification processes and the penalties for non-compliance very well. It is also made clear how warrants will be issued and executed. In Clause 19(6)(b), the Bill indicates that 48 hours' notice should be given before the execution of a search warrant. This is something I am likely to return to in Committee.

I am grateful to my colleague the noble Baroness, Lady Miller of Chilthorne Domer, for the example she gave of the success of the ban on trading in exotic birds. The Bill we are debating today has exemptions, which are realistic and preserve many items that will be valued for their beauty. The exemptions will not fuel poaching, and that is the whole purpose of this Bill. No doubt we shall return in Committee to the noble Lord, Lord Carrington, and his exceptions.

The Musicians' Union, as we have heard from other speakers, is concerned about whether the ban on ivory from elephants would extend to ivory from mammoths, as mentioned by the noble Lords, Lord Grantchester and Lord Berkeley of Knighton. Musical instruments have been repaired using mammoth ivory as an alternative to elephant ivory, as a way of protecting elephants at the same time as ensuring that instruments are maintained and kept in circulation. This is something we shall also return to in Committee. I was also interested in the comments of the noble Baroness, Lady Quin, about the Northumbrian pipes; my husband is a great fan of their sound.

Many thousands of items have been created from raw ivory; they are delicate and show the skill of the craftsmen who created them. Antique items made before 1918 of outstanding artistic value and importance would be exempt, and owners would have the opportunity to apply for an exemption certificate. The Bill is detailed in setting out exactly what is required to obtain and maintain an exemption certificate so, as the Minister has indicated, there is no level of doubt on the subject.

It is claimed that there will be many items which do not fall into this category and will therefore be destroyed, as the noble Lord, Lord De Mauley, has said. I believe this is a hollow argument. Many of our own articles which could be classed as "artistic". They may be of cultural and historic interest to us and our families but this may not stretch to the category of "outstanding". Are we led to believe that we would destroy these objects because they would not command a good price if taken to the "Antiques Roadshow"? Of course not. They will be retained and passed down through families. There will be a need for more diligence, of course, and for a raising of awareness around small items containing ivory. This could be tiresome but it is essential that the Government stick to their intentions.

I regret to say that for those who have collected ivory carvings solely for their monetary value I have little sympathy. This market has fuelled poaching and brought about the death and butchery of hundreds of thousands of elephants. This trade has to stop. I support those calling for a ban to be extended to other species—hippos, narwhals, et cetera—and I welcome the Government's commitment to consult once the Bill is passed.

I turn briefly to the cybercrime aspect of the ivory trade. My noble friend Lord Clement-Jones spoke about this, as did the noble Earl, Lord Attlee. The correct certification of ivory is crucial to stopping illegal laundering through the UK. If it begins to look as though it might be impossible to prevent this via the internet, maybe a ban on all internet trading in ivory, even for those items which are exempted, will need to be considered—a point made by the noble Lord, Lord St John of Bletso. I am sure that this is something we will return to in Committee in September.

The CITES has prohibited trade in Asian elephants since 1975 and in African elephants since 1990, but poaching continues. Now, before the Illegal Wildlife Trade Conference to be held in London in October this year, is the time to institute a countrywide ban and show that we take this terrible slaughter seriously, as mentioned by the noble Lords, Lord Grantchester and Lord Hague, my noble friend Lady Miller of Chilthorne Domer, and others. The consultation, which ended on 29 December 2017 and led to this Bill coming forward, had responses indicating that 88% of the population support a ban on ivory sales. We must now assist the Bill to become law, and I am heartened by the number of noble Lords who have supported a ban.

I leave your Lordships with this thought, which will not be popular. This second Chamber, unlike the elephant, is not popular with the British public. If your Lordships were to be culled at the same rate as the elephant—that is, 55 per day—would this House

[BARONESS BAKEWELL OF HARDINGTON MANDEVILLE] quickly become of a size when the public would cry “Enough”? I look forward to the Minister’s response to the many points made this afternoon and to debating the Bill further in Committee.

6.52 pm

**Baroness Jones of Whitchurch (Lab):** My Lords, as my noble friend Lord Grantchester has made clear, we very much support the aims of the Bill. Action to tackle the international trade in ivory is welcome, if not long overdue. As we have heard, despite international efforts, around 20,000 elephants are killed each year for the ivory trade—approximately 55 elephants every day. At that unsustainable rate, elephants are likely to be extinct in the wild within two decades.

Our country can make a huge contribution to reversing that decline, not only through the action that we take in the UK but through the influence that we are then able to bring to bear upon others. By passing this Bill we will have earned the right to become a global voice on this issue, and indeed to use that voice to urge other countries to follow our lead.

At the heart of the problem are some very unsavoury organised criminals. The illegal wildlife trade is the fourth largest illegal trade behind drugs, human trafficking and counterfeiting, worth over an estimated £15 billion annually. Ivory tusks trade at £65 per pound on the Asian black market. It is a serious organised crime that is decimating wildlife populations, threatening local livelihoods and fuelling further criminal activity, including terrorism, with extremists using the money to fund their activities across Africa.

As the noble Baroness, Lady Chalker, pointed out, security forces believe that many of the gangs involved in wildlife trafficking are now using existing drug trafficking routes to smuggle the ivory as well. They use sophisticated techniques: they have secret codes and communications channels and are therefore very difficult to intercept. However, we have to take that challenge on.

Such gangs can succeed only because demand for highly valued ivory pieces in Asia continues to be so strong and so lucrative. I agree with the noble Lord, Lord Hague, that ultimately our challenge is to reposition ivory not as a symbol of luxury and wealth but as a symbol of cruelty. That is where the future lies.

Meanwhile, the criminals continue to be successful because the restrictions we have already introduced are simply not working. Recently, the campaign group Avaaz bought 109 items of ivory from 10 European countries and had them tested using radio carbon dating. Almost one-fifth of the objects were found to contain ivory from animals killed since 1990. This is illegal, following the restrictions on the global ivory trade that were put in place in 1989. Three-quarters of the items were dated after 1947. Even the highly respected auction house, Christie’s, has been fined for trying to sell illegal ivory, and there is widespread evidence of the current rules being circumvented or misunderstood.

As well as blocking routes to markets, we have to address the poverty and deprivation that drives some of the poorest African villagers to poach—a point

made by a number of noble Lords. They have to be persuaded that they have a future conserving elephants and other wildlife. The value of elephant tourism is extremely high, with a living elephant in the savannah worth 76 times more than a dead elephant in the marketplace. Protecting Africa’s elephants, therefore, makes monetary sense too, but we have to get that message across. This is why we have welcomed the £44 million recently announced by the Government to invest in such initiatives as eco-guardians and the community enforcement networks to help to create alternative livelihoods.

I also agree with the noble Baroness, Lady Miller, that we need to pay tribute to those conservationists and individuals who have risked and lost their lives to protect endangered species. I very much liked her suggestion that we could have a monument to acknowledge their contribution to the campaign.

I turn now to some of the concerns that have been expressed today. The noble Lord, Lord De Mauley, and others questioned whether a continued antique ivory trade contributes to the illegal trade in new ivory. We should of course acknowledge and value the cultural significance of historic ivory products—nothing in this Bill prevents their continued ownership—but the fact of the matter is that the existence of a legal domestic market is helping to fuel the illegal trade by providing cover and reinforcing the high value of ivory across the world. We know that illegal ivory items seized by the police and Border Force in the UK have been falsely antiquated, using artificial stains or ageing techniques, and are clearly destined for the legal antique market. The two sources are interconnected. There is also considerable evidence that legal CITES Article 10 certificates have been used to conceal illegal ivory.

As the noble Lord, Lord Hague, and the noble Baroness, Lady Chalker, have said, the Bill is not a panacea—of course it is not. However, it will make a difference and will save the lives of thousands of elephants by beginning to break up those trading routes.

For those who queried how museum quality would be judged, in evidence to the Common’s committee on this Bill the museums themselves expressed that they were confident that they could make the arrangements work, whether it is for small museums or large museums.

Other noble Lords have contrasted the 10% de minimis exemption for antiques with the 20% proposed for musical instruments. We support the 20% threshold and believe it is necessary to manage the legacy of instruments made decades ago when alternative materials such as plastic were not readily available. These instruments are not subject to the same level of commercial activity. There is no music industry trade in these instruments, but simply an ongoing series of one-to-one transactions between fellow musicians and music shops to repair, maintain and sell the instruments on to further instrument players. For professional musicians, their instruments are the tools of their trade. They are an investment in their livelihoods, mostly sold at the end of their career only to allow them to retire with dignity, not to make a profit.

My noble friend Lady Quin raised the issue of Northumbrian pipes. I think we would all like to hear them played because she has sparked our interest. I would have thought that the instrument would indeed include the bag and the bellows. The Minister might have a different view. But as she said, these are domestic, not commercial instruments. I would have thought that their future could be protected by sharing and gifting in the future.

I now turn to some areas where we would like to see improvements in the Bill and we will explore these in Committee. First, as has been said, the Bill has a narrow focus on elephants. It ignores the poaching of hippo and other non-elephant species for their ivory. Broadening the definition of ivory is necessary, not only because many other CITES species are at risk of becoming endangered, but to prevent a narrow focus on elephant ivory pushing poachers towards other forms of ivory. For example, the black market's insatiable demand for ivory has already turned towards hippos, which offer a cheaper, and, in many ways, easier, ivory option. Hippos have declined by 12% to about 100,000 in the past decade with the rise in demand for hippos' teeth threatening the mammal with extinction.

In the other place, the Minister was sympathetic to these concerns, but argued the need for a further consultation to satisfy the requirements of the European Court of Human Rights. We have never been persuaded of this argument and indeed have legal advice and advice from the Consultation Institute that contradicts that. Nevertheless, we are pleased that the Secretary of State has now announced a further consultation to extend the provisions in the Bill to include hippo, walrus and narwhal ivory. But the consultation is not due to start until this Bill receives Royal Assent, which will be some time towards the end of October. I do not understand why this consultation cannot start now. If it did, it could be completed before Royal Assent and perhaps included in this Bill. Can the Minister explain why the Government are unable to publish the consultation before the Bill is passed?

Secondly, we believe the exemptions to the ban on sales set out in the Bill should strike a balance between being robust and proportionate, but we share concerns that the scope of Section 2 as drafted is too wide. To this end, we will be pressing the Government to ensure that only the,

"rarest and most important items of their type",

are granted exemptions. That was a phrase initially used by the Government which has now been replaced by a broader exemption as defined in the Bill. We will revisit that definition.

In addition, we will argue, as other noble Lords have mentioned, for an annual register of items that have been exempted to be published to ensure transparency and public confidence in the ban. We will also be looking for assurances that the registration and certification schemes are not open to abuse. That is important because, as we have heard, legal CITES Article 10 certificates have been used to conceal illegal ivory.

Finally, we believe it is vital that the UK has the right level of funding and enforcement powers in place to enforce the ban. The National Wildlife Crime Unit

has only 12 members of staff, including administrative staff, to cover the entirety of its work across the UK, and its funding is due to expire in 2020. So we hope that the Minister will be able to give us greater assurances about longer-term funding.

We will be seeking more powers to tackle online cybercrime where so much of the illegal trade continues to flourish and we hope that the Government will be able to give us further assurances on that. If not, I am quite attracted to the proposal put by the noble Lord, Lord St John of Bletso, for a complete ban on internet trading, which may be an easier option.

In conclusion, I thank all noble Lords who have contributed their expertise to the debate. We will seek to improve the Bill in Committee, but I am pleased that so far we are developing cross-party support for it, and ultimately I hope that we will achieve unanimous approval of its overarching objective of ending the illegal poaching of elephants.

7.05 pm

**Lord Gardiner of Kimble:** My Lords, this has been an exceptional debate and we have heard from noble Lords with direct knowledge of events in Africa where the elephant is being slaughtered in unsustainable numbers. I want in particular to pay tribute to my noble friends Lady Chalker of Wallasey and Lord Hague of Richmond, who have been so instrumental in doing a great deal for the interests of communities in Africa. I pay tribute also to the noble Lord, Lord Clement-Jones, on his experiences. I do so because I believe strongly that if our generation does not act now, it will be too late. I should also say, given the many questions put to me and the many notes I have received, that your Lordships would be sitting for a very long time if I were to answer every single question. A comprehensive reply to all the comments that have been made will of course follow this debate. I have the answers to almost all the points but, in the time available, it will not be possible to do them justice.

I shall turn immediately to an issue raised by a number of noble Lords, which is that of heritage in terms of natural heritage, as outlined by the noble Baroness, Lady Flather, in relating her experiences of the elephant, and indeed how we would rob some of the world's poorest communities of their natural resources and deprive us and future generations of this extraordinarily inspirational creature. I am also most grateful to the noble Baroness, Lady Jones of Whitchurch, for expressing her support for government initiatives, a number of which were referred to by my noble friend Lady Fookes. Through the IWT Challenge Fund, we have been supporting projects around the world to engage local communities in conservation, to enhance human/wildlife coexistence, and to strengthen community involvement in helping to tackle crime. These are the communities that are being impoverished by this trade, and it is others around the world who are enriched by it. I was also struck by what my noble friend Lady Rawlings said about the British effort, and obviously I am really pleased that our gallant forces in the military have been helping in Gabon and Malawi to deal with poachers.

[LORD GARDINER OF KIMBLE]

As I mentioned earlier—and as the noble Lord, Lord Clement-Jones, will know through his close association with the Giants Club—the summit held in Botswana in March this year reflected the unity among the political leaders of the four countries that hold half of Africa’s remaining elephants. At that summit, the Presidents of those four countries signed a petition that called on the EU and by extension its member states to shut down their domestic markets, end all ivory exports and support efforts to ban the global ivory trade. They join 28 other African nations as signatories to the petition. That is an extraordinary request from the continent of Africa where these wonderful creatures are, and we must respond.

A number of points were made about other species. I want to deal with those immediately by saying that it is absolutely the Government’s intention to launch a consultation seeking views and evidence for extending the definition of ivory on or as soon as practicable following Royal Assent to the Bill. There are reasons for that. We have already taken a power in the Bill to allow the Secretary of State to extend it to cover other ivory-bearing species through regulation, and the power taken extends from applying only to ivory-bearing species listed under CITES to any ivory-bearing species. Obviously the noble Baroness, Lady Jones, and I can exchange legal opinion, but in the end it will be the Secretary of State and this Minister who will have to sign the certificate, which as noble Lords know is part of our ministerial responsibilities. The legal advice we have is that we must consult, and we will do that as soon as possible. However, I am happy to have sight of any legal opinion referred to by the noble Baroness, but that is the legal advice we have received, and in the end it is for Ministers of the Government to sign the certificate as a matter of compliance, as one would expect.

A number of issues were raised about the ban and the country’s place in it. I was very struck by my noble friend Lord Hague’s reference to China, saying “Well, when are you going to do something about this?” Indeed, it is important to know that whatever noble Lords may say, ivory will not be a symbol of luxury anymore. We have sought a balance between absolutely curtailing and snuffing out demand, and having the exemptions that we have decided are proportionate. However, the balance in this legislation will always be that living creatures are the most important priority.

I am very glad that my noble friends Lady Rawlings and Lord Crathorne spoke about the exemptions and the rationale. I assure your Lordships, particularly my noble friends—and they are my noble friends—who have expressed the concerns of the antique trade, museums and musicians, that we have had considerable discussions with those sectors. If time permits, I will read out some of the quotes that we have had from the antique sector and musicians, who expressed some surprise that we have reached such exemptions and that the conservation NGOs think that they are proportionate. Indeed, they have expressed surprise; they thought that they were in a position where they can manage the situation.

I say to my noble friends that getting this right is our priority, but we have this Bill because of the slaughter of an animal that will be extinct in the wild unless we do something demonstrable. Neither I nor the noble Baroness, Lady Jones of Whitchurch, is saying that there is a connection. As I said in my opening remarks, to which my noble friend Lord Hague of Richmond referred, a UN Office on Drugs and Crime report made it absolutely clear that,

“the trade in illicit ivory is only lucrative because there is a parallel licit supply”.

That is the challenge we must take on with the demand for ivory, particularly in east Asia. The figures that I have expressed to your Lordships show that the amount of ivory going from this country to Asia has been increasing, not decreasing. We need to deal with that. I want to make it very clear that we have sought a balance that we think is proportionate. I will be very pleased, both in writing and in further stages of the Bill, to explain our rationale.

We had 70,000 responses from individuals and even more from campaigning organisations. The strong message was that we should have a comprehensive ban. We thought that having these exemptions was proportionate because we were persuaded that they would not fuel the demand that we must snuff out. As we have said, it is clear that the restrictions go beyond the CITES requirements on restrictions for post-1990 ivory. We have also gone further than the EU precisely because our lead is being looked at by other countries. This is not about some sort of gesture; it is about leadership and saying that this trade must stop. We must do everything we can to stop it. I am clear that we have been, and will remain, resolute. I understand that the function of this House is to scrutinise and improve, but we have sought to do what we can to find the right balance in these matters.

A number of noble Lords made points about online issues. I want to make it absolutely clear that this legislation takes enforcement extremely seriously. We intend the Animal and Plant Health Agency, the Office for Product Safety and Standards and the police to have access to registration systems, take spot-checks of registrations and carry out any necessary enforcement action. This will be clearly online as well. We want to ensure that the offence of facilitating a breach of the sales ban is specifically designed to capture online sales fora and, for instance, the use of traditional media, such as newspapers. Furthermore, Clause 34 ensures that we can charge a particular person within a corporation responsible for a breach so people cannot hide behind their company.

There was another point made by the noble Lord, Lord Grantchester, and my noble friend Lord Selkirk. I have seen the programmes that my noble friend’s kinsman, and his daughter Saba Douglas-Hamilton, have produced. We owe them a profound debt of gratitude for what they have done to highlight the nature of elephants and how we can better protect them.

We also need to take the opportunity to acknowledge the people who have died because of seeking to prohibit the poachers from doing their dreadful deeds. Let us remember that, when we are talking about these objects,

we are talking about human beings and animals that have died because of this, and I think that is the perspective in which we should look at it.

Clearly, we do not want to make unnecessarily draconian pieces of legislation; that is why the defence of ignorance is there to be proportionate so that the standards used determine whether someone has acted reasonably, and it will clearly depend on the circumstances of the accused.

Also, we want to make it clear—I paraphrase because my notes are not quite in order—that the whole point about having civil and criminal sanctions is precisely because we realise this is a new piece of legislation, and we understand that there will be different elements of criminality in terms of the sorts of gangs, organised crime, and billions that are involved. Regarding the amount of the fine that my noble friend Lord De Mauley referred to and the five years that my noble friend Lord Crathorne talked about, this is not about the person who has, by some mistake and completely with ignorance, sought to put a piece on the market. This is precisely because we need to get at the organised gangs who, in the end, want to receive the ivory from wherever it may be. This is why we have sought in our package—and, yes, it is a package and it is a balance—to make sure that civil sanctions and criminal penalties are done properly through the police, where that is required.

I say to my noble friend Lord Inglewood and the noble Earl, Lord Kinnoull, that I am absolutely seized of the fact that we want the registration system to be as bureaucracy-free and straightforward as possible. That is why we were working on an IT system that will not be burdensome and that—as it is based on a cost-recovery basis—is intended to be small. We want to have this non-bureaucratic system. We will also run an awareness campaign to ensure that potential buyers and sellers understand what is required. Again, this is intended to give safety and security to the seller and the buyer. That is the whole purpose. We are absolutely clear that the purpose of this legislation is to stop the demand in ivory, with certain exemptions. That is why it will be rigorous, but the registration for the first three exemptions will be through means which we think are not bureaucratic or burdensome. I shall write to my noble friend Lord Crathorne on his queries. However, I should say now that there are distinct reasons for the particular dates that we chose. It is 2018 now, so we thought that 100 years ago—1918—was a suitable choice.

The noble Lord, Lord St John of Bletso, referred to a guide to the Bill's application. The Government will publish guidance on various aspects of the Bill to ensure it is implemented effectively. My noble friend Lord Selkirk asked whether enforcement will be adequate and exemptions not exploited. We will ensure that they are robust—they have to be, because that will underpin the success and effectiveness of the ban. I give credit to the police, the National Wildlife Crime Unit and the Border Force for what they have done to date in tackling this abhorrent crime. Our proposals will go further than the current regime. We will also nominate a regulator to enforce this ban, alongside the police and Border Force.

The noble Lord, Lord Clement-Jones, asked about the rarest and most important items. We intend this to be applied on a narrow strata of items considered, on the advice of expert assessors, to be of outstandingly high artistic, cultural and historical value. I agree with my noble friend Lord Crathorne that this is subjective but that is why we are asking experts to do that exemption, which we think is valid and is the right way forward. We did not think that a total ban was the right thing for these objects. We reached that position because we thought that this was a sensible arrangement. We therefore will be looking to experts to help us.

There were a number of questions about music and musicians. Owners of instruments containing ivory will need to register their instruments only if they wish to sell them or to engage in other commercial activities, such as hiring them out. Musicians wishing to take their instruments overseas for concert tours will not require registration, but must adhere to existing CITES regulations. My officials have received a copy of the Musicians' Union briefings and will be happy to respond in writing or to meet it. The noble Lord, Lord Berkeley of Knighton, mentioned Professor Jonathan Freeman-Attwood. I have to declare an interest in that he played at my wedding, so I know the professor rather well. But regarding this exemption, Paul McManus of the Music Industries Association has said,

"we are extraordinarily grateful that this exemption has been considered at all".—[*Official Report*, Commons, Ivory Bill Committee, 12/6/18; col. 49.]

We have gone as far as we can.

I am obviously very clear and conscious of what the noble Baroness, Lady Quin, said about the Northumbrian pipes. I agree with the noble Baroness, Lady Jones of Whitchurch. I would obviously always be happy to see the noble Baroness, Lady Quin, but we have these exemptions and we have got as far as we have with them. I will obviously meet her but we have had to find some definitions for these exemptions.

**Baroness Quin:** I hope that the Minister will at least listen to representations from the pipers but, to reinforce the statement that I made, they bought their instruments not because of ivory but because they were good to play. In that sense, it is not the same as people buying objects because they think that ivory is valuable.

**Lord Gardiner of Kimble:** Yes, I understand the noble Baroness's point. I think that I have explained the position that we are in, but I will of course meet with her.

The noble Earl, Lord Kinnoull, referred to museums. Accredited museums will be exempt from the ban. This will allow them to purchase, loan or exchange ivory items. I am also happy to meet him to discuss insurance.

A number of noble Lords mentioned funding, including the noble Lord, Lord Grantchester. We wholly believe that the regulator and law enforcement agencies need sufficient funding to tackle wildlife crime. Defra will consider longer-term funding as part of the normal spending review process over the coming year. The noble Lord, Lord Clement-Jones, asked whether the agencies have sufficient powers under the Customs

[LORD GARDINER OF KIMBLE]  
and Excise Act and the Proceeds of Crime Act. The Bill does not change the scope or reach of the legislation conferring powers for the purpose of customs checks on international trade and divesting criminals of the proceeds of crime. These powers are available, where applicable, against unlawful dealings in ivory items.

My noble friend Lord Lingfield mentioned the process for rarest and most important items—RMI, as I will describe it. We are working with experts at a number of institutions and have no expectation that this process will take a long time. My noble friend Lord Carrington of Fulham expressed concern about high registration fees. We do not intend these to be on anything other than a cost-recovery basis. My noble friends Lord Crathorne and Lord Carrington referred to museum quality. Yes, I agree that it is subjective but we have been working to get the advice of the country's foremost experts, so I hope my noble friend Lord Cormack and others will see that we are sincerely trying to ensure that all these items are within the exemption, as they should be.

My noble friends Lord Attlee and Lord Carrington asked about inheritance tax and my noble friend Lady Rawlings referred to other taxation. Once the ban

comes into force, prohibited items will be subject to nil value for inheritance tax purposes. Items subject to exemptions will still have a market value and may therefore be subject to inheritance tax. Indeed, we are aware that there may be a loss to the Exchequer, but we believe that the objects of this legislation far outweigh that loss.

A number of points were made about enforcement powers. I would be very happy to meet my noble friend Lord Inglewood, because there are points that I would like to discuss with him. On more spending on conservation, I have already mentioned it in another regard, but my noble friend Lady Chalker and the noble Lord, Lord St John of Bletso, raised this. We are doing more, but I will write on that.

I have sought to refer to all questions, but I will write more fully. My noble friend the Whip will not be pleased with me, but I am most grateful for all contributions. I will study *Hansard* very carefully and will write fully, but at this stage I ask noble Lords to give the Bill a Second Reading.

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

*House adjourned at 7.27 pm.*



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