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OFFICIAL REPORT

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Abbreviation	Party/Group
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
Lab Co-op	Labour and Co-operative Party
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

Wednesday 16 January 2019

3 pm

Prayers—read by the Lord Bishop of St Albans.

Brexit: Support for Remaining in the EU Question

3.07 pm

Asked by **Lord Dykes**

To ask Her Majesty's Government what assessment they have made of public support for remaining in the European Union.

The Minister of State, Department for Exiting the European Union (Lord Callanan) (Con): My Lords, in 2016, 17.4 million people voted to leave the European Union. This was the highest number of votes cast for anything in UK electoral history, and the biggest democratic mandate for a course of action ever directed at any UK Government. This Government believe it is our duty to implement this will of the electorate and deliver on the referendum result.

Lord Dykes (CB): My Lords, the largest ever opinion poll—25,000 people participated over the holiday period—showed a remain lead range of between 16% and 26%, including former leave voters as well. The game is up. Surely Parliament must now move to save the people from the Government's continuing folly.

Lord Callanan: I am sorry to disagree with the noble Lord. There have been a lot of opinion polls since the referendum result, so while researching this topic this morning, I looked to see whether any analysis of these has been done. Indeed, there has. Let me read what Professor John Curtice, who I think we would all agree is a respected polling analyst, said after analysing all the polls:

"In short, neither side in the Brexit debate has secured any 'momentum' so far as the balance of public opinion is concerned—and any claims to the contrary made by protagonists on either side of the debate should be regarded with considerable scepticism".

Baroness Hayter of Kentish Town (Lab): My Lords, 17 million people may have voted in the referendum but in this House, a majority of 159 voted against the deal, as did a majority of 230 in the other House. Is it not time that the Government stopped being so dismissive of Parliament and of the votes and views here, and began to listen? Ruling out talking to the Opposition is irresponsible. Is it not time for listening and some serious talks?

Lord Callanan: Maybe the noble Baroness should stop being so dismissive of the referendum result in the first place. The Government have said that we take the opinion of Parliament extremely seriously. The Prime Minister will conduct discussions with party leaders and others to see what is acceptable in Parliament.

Noble Lords: Oh!

Lord Callanan: The Labour Party does not exactly give the impression that it is open to discussions. I recommend that the noble Baroness look at the interview on Channel 4 with her Front-Bench spokesman, Richard Burgon, who was talking with a very reasonable—for a change—Liberal Democrat, Jo Swinson. He said the Conservatives were the "real enemy". I hope the Labour Party is up for some constructive discussions, but it really needs to decide what it is in favour of, rather than just what it is against.

Baroness Ludford (LD): My Lords, we know that the Conservatives believe that there can be a rethink after a first referendum as they did so regarding the Welsh devolution referendum, when Conservatives, including Theresa May, voted against implementation and then, in a later manifesto, said they were going to overturn it. Is it not entirely hypocritical of the Government to refuse a democratic vote of the people to assess whether Brexit has turned out as they thought it might? In fact, a recent YouGov poll showed a 63% majority for remain compared with May's deal. Is it not the reality that the Government are afraid of the people?

Lord Callanan: Not at all; we are implementing the will of the people. I say to the Liberal Democrats that not only have they failed to convince the majority in this Parliament of the case for a second people's vote, but they have not even convinced Mr Guy Verhofstadt, their leader in the European Parliament and someone the noble Baroness knows well, as I do. This morning he tweeted that,

"it is unthinkable that article 50 is prolonged beyond the European Elections",

which, for those who do not know, are on 23 May. The previous referendum Bill took seven months to go through Parliament—from a Government with a majority and a manifesto commitment to implement it. The Liberal Democrats need to get real about this.

Lord Lansley (Con): My Lords, does my noble friend recognise that many who voted in the referendum—on both sides, leave and remain—want us to be in a common market with our European neighbours but not in the European Union? The mechanism that they think might achieve that is to be in a customs union with our European neighbours while exiting the European Union. Will he recognise that that should now be part of these productive discussions, including with the political parties represented here?

Lord Callanan: I thank my noble friend for his constructive contribution, as always. We have to accept yesterday's vote in Parliament. We have to talk to all sides of Parliament because there needs to be a majority for something. I am sure that the Prime Minister is up for constructive discussions with all sides.

Lord Wigley (PC): My Lords, in view of the statement made by the Prime Minister yesterday that she will seek a consensus, will the Government now rule out a no-deal Brexit?

Lord Callanan: My Lords, a no-deal Brexit is on the cards because Parliament has legislated for our leaving on 29 March, which accords with how the majority of people in Wales voted. The best way to prevent no deal is to have a deal. There is a deal on the table.

Lord Hannay of Chiswick (CB): My Lords, does the Minister recognise that in the situation we are now in, there is no realistic possibility of settling this matter before 29 March other than by a default departure, which this House categorically rejected by a majority of 169? Could he not take a slightly softer tone about the need for a prolongation, which is now quite obvious to everyone?

Lord Callanan: I thank the noble Lord for his comments but it is not a question of taking a softer or harder tone. I was merely quoting what the law passed by this Parliament, and the Article 50 process, says: that we will leave on 29 March. If that were to change, it would need to change by statute.

Lord Bridges of Headley (Con): My Lords—

Lord Lilley (Con): My Lords—

Noble Lords: Bridges!

Lord Bridges of Headley: I give way.

Lord Lilley: Does my noble friend agree that it is very important to keep one's word? Does he recall the then Prime Minister saying at the beginning of the referendum campaign:

“When the British people speak, their voice will be respected—not ignored. If we vote to leave, then we will leave. There will not be another renegotiation and another referendum”?

That was endorsed by all sides of the campaign.

Lord Callanan: I do like these popularity contests between different noble Lords. I thank my noble friend for his comments, which I wholeheartedly endorse.

Planning: Permitted Development Rights *Question*

3.15 pm

Asked by Baroness Thornhill

To ask Her Majesty's Government what plans they have to increase permitted development rights, following their consultation *Planning Reform: Supporting the high street and increasing the delivery of new homes*.

Baroness Thornhill (LD): My Lords, I beg leave to ask the far less exciting Question standing in my name on the Order Paper, and remind the House of my declaration of interests.

The Parliamentary Under-Secretary of State, Ministry of Housing, Communities and Local Government and Wales Office (Lord Bourne of Aberystwyth) (Con): My Lords, it is very exciting in its way. We have consulted on a package of proposals to support the high street and speed up the planning system to deliver more homes.

This includes new national permitted development rights—for greater diversity on the high street and to create additional homes by extending certain buildings upwards. Decisions will be taken in due course on the introduction of any new permitted development rights, taking account of the responses received to the consultation.

Baroness Thornhill: I thank the Minister for that Answer, but I seek an assurance that the Government will review and evaluate the impact of the current permitted development rights—which, in my experience, have resulted in poor-quality homes in inappropriate locations and a significant loss of developer contributions for local infrastructure and social and affordable housing—before there is a further expansion, with even more development going ahead without planning permission.

Lord Bourne of Aberystwyth: My Lords, the noble Baroness will be aware that the consultation closed on Monday. We have had more than 400 responses. One thing that people will be able to comment on is design, which I think the noble Baroness referred to tangentially. Obviously, we will want to analyse those responses before going further, but this is about ensuring that there are more homes available and seeking to liven up the high street, which is much needed.

Lord Kennedy of Southwark (Lab Co-op): My Lords, I draw the attention of the House to my relevant interest as a vice-president of the Local Government Association. What does the Minister see as the risk to quality and space standards of increased permitted development rights, and what would be the benefit to our struggling high street of the loss of more shops, reducing the variety available to customers?

Lord Bourne of Aberystwyth: My Lords, the noble Lord will be aware that this is not about losing shops but about permitting speedier change of use from one medium to another. It is also about looking at the ability to build up to five storeys from ground level, so it is not necessarily about losing shops. There are many vacant shops and there is a question about what we do about that, but, as I say, the consultation has just ended. We are beginning to analyse the more than 400 responses that have come in, so there is a job of work to be done, but we are very conscious of the need for more homes and to liven up the high street. Those two things are not necessarily inconsistent.

Lord Naseby (Con): Does my noble friend recognise that the consultation was enormously welcome? Can we hope there will not be a further delay, as there has been on a large number of other consultations? As this is an important matter, can I press my noble friend that by the autumn there will be a clear statement of policy?

Lord Bourne of Aberystwyth: I thank my noble friend for his kind comments. I think he would agree that swift action is something we would want, but obviously the consultation has only just ended. We will want to bring forward legislation, dependent on the consultation and the analysis of the responses, and to

do it at the earliest possible opportunity. I take very seriously what he says, but this consultation is an important one and we will be analysing those 400 responses.

Lord Shipley (LD): My Lords, I remind the House of my declaration of interests. I also remind the Minister that since 2015, 42,130 housing units in England have been converted from offices to flats without having to go through the planning system. As a consequence of that, there have been problems, such as no Section 106 agreements, a lack of affordable housing and problems around space standards. As the Government review the consultation, will they look at whether the planning system should be strengthened to prevent poor-quality conversions, given that quite a number in the last three years have been?

Lord Bourne of Aberystwyth: My Lords, the noble Lord mentions many important facets. I take seriously what he says about design; he will be aware that we introduced that into the National Planning Policy Framework, and it certainly cropped up in the consultation so we will be looking at it closely. I am also aware of the number of conversions from offices to residences, which has certainly put us in a much stronger position than we were on housing starts and completions, and I note that the latest figures show an increase in both. I am sure that noble Lords will share in the delight at that. I take seriously the points made by the noble Lord and we will obviously analyse the consultation responses carefully.

Baroness Crawley (Lab): My Lords, what do the Government intend to do about the crisis in affordable accommodation for young people and young families in this country today?

Lord Bourne of Aberystwyth: My Lords, the noble Baroness raises a much broader point. She will be aware that there is £9 billion in the Budget for this spending period in relation to affordable housing—a considerable contribution. That will, I hope, create more homes, although not necessarily affordable homes, but once again there was provision in the consultation for people to comment on this and we will look at it when we analyse the responses.

Lord West of Spithead (Lab): My Lords, Napoleon called us “a nation of shopkeepers” and of course 95% of the supplies that come to our shops come by sea. Does the Minister think that perhaps we need more ships to look after that, otherwise the shops will have nothing to sell?

Lord Bourne of Aberystwyth: My Lords, the noble Lord never disappoints and today is no exception. I certainly agree that we are a nation that depends very much on trade; we are also a nation that is very dependent on the sea. Both those things inform the Government’s broader policy concerns.

Lord Greaves (LD): My Lords, does the Minister agree that not all places are the same and not all high streets are in collapse? Some are surviving, such as that in Colne, the town I live in—I declare my interest as a councillor there. Therefore, what is needed is not a

new set of one-policy-fits-all rules imposed on councils but flexibility for all local councils to adopt the policies which are appropriate in their areas.

Lord Bourne of Aberystwyth: My Lords, I share the noble Lord’s view that it is important that we have that diversity. As he indicates, there are many successful high streets. He mentioned Colne but the high street awards, sponsored by my honourable friend in the other place and Visa, have also been very successful. I am pleased to say that the overall winner was Crickhowell but Altrincham was the winner in England. We are looking at many ways of promoting the high street but the noble Lord is absolutely right that one size does not fit all.

Gambling: Advertising Ban

Question

3.22 pm

Asked by Lord Kirkhope of Harrogate

To ask Her Majesty’s Government what plans they have to ban gambling advertising, particularly on television, to counter the negative effects on vulnerable and younger people, and others.

The Parliamentary Under-Secretary of State, Department for Digital, Culture, Media and Sport (Lord Ashton of Hyde) (Con): My Lords, there are strict controls to prevent gambling advertisements targeting children or exploiting vulnerable people. Our review set out measures to strengthen the protections, including tougher guidance and sanctions. We welcome initiatives by the industry and broadcasters, including the ban on advertising during live sport. A major survey of evidence found that advertising’s impact on problem gambling is likely to be rather small. We will look at all new evidence as it emerges.

Lord Kirkhope of Harrogate (Con): My Lords, when I was the Minister responsible for gambling in this country in the 1990s, after full research and consultation we turned our backs pretty well altogether on the idea of allowing television advertising of gambling. Sadly, in 2005 the Labour Government of that time totally liberalised this and we ended up with a great and continuing problem. We now have a total of £234 million of advertising revenue from gambling on television. While I welcome the Government’s position and the way in which they are taking initiatives, including its whistle-to-whistle voluntary agreement, I am still very concerned that any review has no real timescale. Will my noble friend the Minister therefore give us some indication of whether there will be a timescale to a further review? To use an imperfect analogy to the point made yesterday by the noble Lord, Lord Griffiths, there is currently a viviparous situation which needs to be rectified with a clear timescale in view.

Lord Ashton of Hyde: My Lords, I now understand what the noble Lord meant by that last bit. We take the problem of advertising gambling seriously; that is

[LORD ASHTON OF HYDE]

why we made several changes in the review. There was a multi-million pound responsible gambling advertising campaign. The responsible gambling message now appears throughout all TV advertisements. There are tougher sanctions for breaches of advertising codes and new guidance on protecting vulnerable people. We will consider how those significant changes have bedded in. The Committee of Advertising Practice also published strengthened guidance with significant new provisions, including restricting calls such as “Bet now” during sporting events. As I said yesterday, though, evidence is important when making policy. That is why GambleAware has commissioned substantial research on the impact of marketing advertising on children and other vulnerable people. I assure my noble friend that that will be undertaken soon.

Lord Foster of Bath (LD): My Lords, should the main focus of attention not be online? After all, that is where 80% of the gambling advertising spend goes. It is now leading to something like 10% of all 11 to 16 year-olds following gambling companies on social media. Does the Minister agree that we need to take more action to tackle online gambling advertising, and build on the new proposals from the Gambling Commission so that we can develop far tougher and more effective age-verification checks?

Lord Ashton of Hyde: I agree with the noble Lord. The reason I did not mention it is that the Question referred specifically to TV advertising. There are features that can be used to hide and avoid gambling advertising online, such as different settings, and GambleAware has advice on how to do that. We are monitoring this and taking action through the Government’s digital charter, but the noble Lord is right: online gambling is the largest sector; 37% of gambling takes place online.

Lord Clarke of Hampstead (Lab): My Lords, while the concern about online and television advertising is quite understandable, can the Minister say whether, in his discussions with the bookmakers’ representatives, they look at high street advertising? If you go into a betting shop, as I do quite frequently, you see lurid adverts for how much money you can get for a small amount. If you are waiting for a bus, you have time to read that. Television advertising is fleeting, but the constant picture of a miracle solution to people’s economic problems is a great temptation. As this Question deals with vulnerable people, we should bear that in mind.

Lord Ashton of Hyde: I agree with the noble Lord. Part of the gambling licensing conditions that betting organisations have to abide by are that they should act responsibly and specifically not target young and vulnerable people. It is up to the Gambling Commission to make sure they abide by their licensing conditions.

Lord Alton of Liverpool (CB): My Lords, when the Minister looks at the effect of gambling on young people, will he take into account the survey conducted by ParentZone yesterday about a new phenomenon called skin gambling? It said:

“Our survey confirmed it is wide-spread, with 10% of children across the UK aged 13-18 revealing they have gambled skins in some form. This percentage amounts to approximately 448,744 children”.

This is surely one of the new phenomena now appearing in social media and elsewhere targeted at young people, and the Government need always to be ahead of the game in these kinds of circumstances.

Lord Ashton of Hyde: The Government are aware of that, and when in-game items such as skins can be used to place a bet or gamble, and be converted into cash, it is considered gambling and requires a licence. The Gambling Commission has taken action and prosecuted unlicensed gambling of in-game items known as skins. We are seeking to work with the video games industry to raise awareness of that and explore solutions, but I take the noble Lord’s point. We are aware of gambling in games and it is a new issue of which we are taking account.

Lord Haselhurst (Con): My Lords, while I am reassured by what my noble friend said about measuring the effects of gambling advertising in sport in particular, especially with football, may I ask him to think about the total effect of the amount of advertising that can now occur, both at a football match and affecting those watching it on television? It is not only the sponsorship of the kit—and maybe the replica kit that follows from it—but the advertising boards that go around the ground. On those channels that have advertising breaks, you get a further bombardment of the joys of gambling.

Lord Ashton of Hyde: My Lords, we are aware of that. That is why we are very pleased that the whistle-to-whistle ban stops such advertisements being shown during half-time, for example. Just under half the advertising will now disappear during live sporting events. That is particularly significant because it will stop the in-play betting which is such a prominent feature of gambling on live sporting events.

Brexit: EU Citizens in the UK

Question

3.20 pm

Asked by **Lord Greaves**

To ask Her Majesty’s Government what support they are giving to citizens of European Union countries who have been resident in the United Kingdom since before the United Kingdom joined the European Economic Community.

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, European Union citizens make a huge contribution to our economy and society, and we want them to stay. The Government are making it as easy as possible for all EU citizens to secure their status after Brexit, and for long-term residents a number of simple options are available for them to do so.

Lord Greaves (LD): My Lords, the purpose of asking this topical Question is to raise an issue highlighted by elderly Italian people living in Bradford. The BBC's "Inside Out" programme in Yorkshire on Monday evening covered this admirably. I am talking about Italians, particularly ladies, who came to Bradford as mill girls 60 years ago and are now therefore mainly in their 80s. One of them said:

"We are foreigners in Italy, we are foreigners over here".

They are old people; they are racked by dismay and anxiety. Many of them do not know what to do and are astonished that they have to apply for something which was granted to them—the right to live in this country—when they first came. On 15 January, the Bradford *Telegraph & Argus* had a headline: "Bradford Italians gripped by Brexit fear". Do the Government understand that this group of people is in exactly the same position as the Windrush people? They are old and do not need the worry in their lives, which may put some of them into what a long time ago people called a decline. What are the Government doing to withdraw those threats from them and simply to leave them alone?

Baroness Williams of Trafford: My Lords, I thank the noble Lord for advance notice of his concern about this. Like any EEA nationals who settled in the UK before 1973, the Italians in Bradford already have indefinite leave to remain and do not need to apply to the EU settlement scheme. They can if they want make a free application to the Windrush scheme for documentation to confirm that status. In any event, the Windrush scheme is open to a person of any nationality who arrived in the UK before 31 December 1988 and believes that they have settled status in the UK.

Lord Clark of Windermere (Lab): My Lords, is the noble Baroness saying that the Italians in Bradford have nothing to worry about?

Baroness Williams of Trafford: Yes, my Lords, I am.

Lord Wallace of Saltaire (LD): My Lords, the Minister may know that some of these Italian women were recruited directly by Salts Mill to work in Saltaire. When I first moved there with my family, we had Italian-born as well as Polish-born neighbours. There is real concern among these elderly people, who in most cases have British citizens as their children and grandchildren. Many of them have been in care homes for several years and do not find filling in forms easy. I heard a TUC representative from Yorkshire describe the settled status scheme as an absolute shambles in Yorkshire. Is there anything that the Government can do to ease the anxieties of those people by making it absolutely clear that they are guaranteed settled status for the rest of their lives?

Baroness Williams of Trafford: My Lords, the Government have made it abundantly clear that these people are welcome to stay. There are a number of routes open to them to confirm that status and the Government are doing everything we can to make this

process as easy as possible. Of course, any party of government has a lesson to learn from the history of the Windrush generation, as the noble Lord, Lord Greaves, says, and we do not want a repeat of that.

Lord Kennedy of Southwark (Lab Co-op): My Lords, the noble Baroness's Answer is partly reassuring, but how will we ensure that people in their 80s are aware of this? People just do not know. What are the Government doing to make sure that people are aware?

Baroness Williams of Trafford: My Lords, there has been quite a lot of highlighting of this, both in the press and by the Government. The Government will open the public phase of the registration scheme on the 21st of this month and we hope that more people will sign up to it; thousands have done so already.

Baroness McIntosh of Hudnall (Lab): My Lords, is the Minister confident that nothing done by any government department or agency of government has contributed to provoking this anxiety? If she is confident of that, why?

Baroness Williams of Trafford: My Lords, we have the lessons of history to learn and certainly the Windrush scandal—which happened, of course, over decades—helped in that endeavour. As time has gone on and identity assurance is much more important in the digital age, so these schemes will add to the confidence of both the public and the Government that we are assuring the right of people to be here and their identity.

The Lord Bishop of Leeds: My Lords, is it possible that the language could be changed? I spoke to a German woman who has been here for 67 years and finds the language of "You may be allowed to stay" quite difficult, as opposed to "You belong", when she has children and grandchildren, she has been a taxpayer and all that. This goes deeper than simply being allowed to stay.

Baroness Williams of Trafford: The right reverend Prelate is right, it goes deeper than the right to stay; it is "You are welcome to stay". This country is most welcoming, hence the influx of immigration into this country, because it is such a great place to live.

Baroness Smith of Newnham (LD): My Lords, I was somewhat stunned yesterday evening to hear the first thing the Prime Minister said after the withdrawal agreement went down in the House of Commons: that EU citizens were most anxious to know what was going to happen and to have certainty. Surely the Government could have given certainty to EU nationals, whether they arrived before 1973 or afterwards, before now. What certainty are they able to give? It is vital to give it immediately.

Baroness Williams of Trafford: My Lords, I think it is clear that, deal or no deal, those people are welcome here.

Education: Treating Students Fairly (Economic Affairs Committee Report)

Motion to Take Note

3.37 pm

Moved by **Lord Forsyth of Drumlean**

To move that this House takes note of the Report from the Economic Affairs Committee *Treating Students Fairly: The Economics of Post-School Education (2nd Report, HL Paper 139)*.

Lord Forsyth of Drumlean (Con): My Lords, it is a pleasure for me to introduce the report of the Economic Affairs Committee, *Treating Students Fairly: The Economics of Post-school Education*. The Committee set ourselves the following exam question: “Is the current structure of post-school education and training, and the way it is financed, appropriate for the modern British economy?” I fear that our short answer was, “Absolutely not”.

Before I explain our conclusions, I would like to thank our excellent specialist advisers for the inquiry, Professors Nick Barr and Andy Westwood, and the committee staff who produced the report, Ali Day, Ben McNamee and Ayesha Waller. I have been told that I can speak for 20 minutes but everyone else can speak for only five. This is ridiculous and therefore I intend to keep my remarks rather shorter so that my colleagues can speak for longer, although of course I recognise that the five minutes is only advisory. My fellow members of the committee will take up some of the points I will not cover: my noble friend Lady Harding and the noble Lord, Lord Sharkey, will discuss our findings on part-time education, flexible learning, apprenticeships and maintenance support.

Tony Blair announced in 1999 that he wanted 50% of young people to go into higher education. That has been achieved, but it was achieved almost entirely from more students enrolling on to full-time undergraduate degree programmes—indeed, “higher education” is now synonymous with universities. Higher education is, however, much broader than the three or four-year undergraduate degree. There are thousands of technical and vocational qualifications which can be studied in a variety of higher education institutions and further education colleges, either full-time, part-time or as part of an apprenticeship.

The number of first-time undergraduate degrees awarded in the UK increased from 369,000 to 414,000 between 2010-11 and 2016-17. Over the same period, the number of other undergraduate qualifications at level 4 nearly halved—from 141,000 to 77,000. The number of vocational qualifications at level 4 was virtually unchanged at 130,000 to 134,000.

The crucial question to ask is: has this been in the best interests of students? Our evidence suggested that there is a shortage of workers with technical qualifications, but lots of graduates doing jobs in which their learning has no application. The evidence for this is set out in chapter 2 of our report, from which I will take two examples. The National Audit Office published a report on STEM skills last year, which found an acute shortage

of people with vocational qualifications of levels 3 to 5, and an oversupply of people with STEM qualifications at degree level. Estimates of the proportion of graduates currently employed in non-graduate level jobs vary from 25% to 50%.

Some current graduates would undoubtedly have been better off with a technical or vocational qualification, relevant to the workplace, which would have helped them secure a more satisfying job and left them saddled with considerably less student debt. But if that is the case, why in the field of higher education has the undergraduate degree become almost the only game in town?

We put forward a number of reasons. For example, other qualifications are perceived as inferior by students and parents. This is not much helped by schools, which are incentivised to push students towards sixth form and university. In particular, an apprenticeship should be viewed by young people and society as just as valid as the academic route. The Government admitted in their response to our report that more could be done in schools to improve information on post-18 options—I pay tribute to my noble friend Lord Baker for the wonderful work he has done in encouraging vocational and technical education in our schools. Employers are increasingly requiring applicants to hold degrees regardless of the level of skill the job requires.

We believe the main reason comes down to one thing—funding, and, in particular, the funding reforms for higher education that the coalition Government enacted in 2012. Tuition fees rose from £3,000 a year to a basic level of £6,000 a year, with institutions able to charge up to £9,000 a year if they agreed to widen access. Before the reforms, the income of the universities was split roughly half and half between tuition fees and government grant, whereas now the vast majority of university income is from the higher tuition fees. Given that funding therefore follows the student, it is unsurprising that almost all the institutions are charging the maximum permissible amount, which is now £9,250. This does not look like the competitive market the Government said would result from the reforms. The reforms, together with the removal of the cap on undergraduate numbers in 2015-16, have incentivised universities to recruit as many students as possible onto the most expensive undergraduate programmes.

These incentives may explain an area where there does appear to have been competition, albeit unwelcome competition: grade inflation. The Office for Students published a report last month which showed that, in 2016-17, 105 out of 148 institutions had an unexplained increase in the number of first-class degrees they had awarded, relative to expected performance across the sector from 2010-11. In 2016-17, 26% of students received a first-class degree, up from 18% in 2012-13. To take one example—there are many of them—the University of Surrey awarded half of its English-domiciled students a first-class degree in 2016-17, up from 23% in 2010-11.

The committee was not, however, convinced that a more competitive market was the only intention behind the 2012 funding reforms. We believe the changes were motivated mainly by a desire to reduce the deficit.

Tuition fees are paid through student loans. Expenditure on student loans does not count as current government spend in the national accounts, unlike the teaching grant, which does. This difference in the accounting treatment meant that George Osborne was able to perform the most extraordinary magic trick, appearing to increase spending by £3 billion in 2012-13, compared to 2011-12, while reducing the deficit by £3.8 billion at the same time as the proportion of funding from tuition fees increased.

This sleight of hand—for that is what it was—was possible despite the fact that a large proportion of student loans will not be paid back. The Institute for Fiscal Studies estimated that around half of the value of student loans issued in 2017-18—around £8 billion—would eventually be written off. These write-offs will of course show up in the deficit only in 30 years' time, by which point the student loan book, which will have to be written off by the generation who are paying tuition fees and taking out loans, will be an astonishing £1.2 trillion in nominal terms.

The very high interest rates on student loans together with charging it now before even graduation has taken place, from the moment students enter the institution, at a current maximum of 6.3%, was part of a plan to reduce the deficit, despite its presentation by the Government, wrongly, as a progressive measure, since they argued that only high-earning graduates would repay all the interest. I am disappointed to see that, despite our report, Ministers are still saying that this system is progressive. In our report, noble Lords will find an example of a man who goes to work in the City as a lawyer compared to a man who works as a nurse. Who ends up paying more? The nurse—because the very high interest rate compounds, and the people on higher wages pay the loan down more quickly.

Under national accounting rules, the interest on student loans is counted as income as it accrues. The Office for Budget Responsibility said this accrued interest was worth £3 billion in 2017-18 and would rise to £7.5 billion by 2022-23. It said that, as much of the interest will eventually be written off rather than repaid, the national accounting methodology,

“does not reflect fiscal reality”.

That was the Office for Budget Responsibility. The full scale of this fiscal illusion was made apparent by further work it carried out, which was published after our report. It said that, when the write-offs on student loans begin to hit the national accounts in the 2040s, they will be more than offset by the interest accruing on larger loans taken out by later cohorts. It described this as a “pyramid of fiscal illusions” and said that, as long as the student loan system persisted in its current form, it would always flatter the deficit, despite the system barely breaking even in cash terms.

We recommended that, to reflect reality, the write-offs on student loans should be recognised up front. We were pleased to see that the Office for National Statistics has acted upon this recommendation. It said last month that, due to the scale of expected write-offs, student loans did not fully meet the criteria of loans as defined in European accounting rules. The classification of student loans will be changed so that the proportion expected to be written off is treated as a capital transfer

rather than a loan. It intends to introduce this change from September this year. The change will also address the accrued interest illusion, as interest will not be charged on the part of the loan that was created as a capital transfer. The interest recorded as government income accrues only on the part of the loan that is expected to be repaid.

This provides a splendid opportunity, in the interests of treating students fairly, of reducing the interest rate to the 10-year gilt rate, at about 1.5%, thus reflecting the Government's cost of borrowing. The Office for Budget Responsibility estimated that the new accounting approach would have added £12 billion to the deficit in 2018. It was quite a turnaround from the Office for National Statistics, which told us in January last year that student loans met the definition of a loan for national accounting purposes. Its change of heart appears to have been prompted by the committee's letter to Eurostat, proposed by the noble Baroness, Lady Bowles, who understands these matters. It was Eurostat's response to us which suggested that student loans did not fully meet the definition of a loan that appeared to stir the Office for National Statistics into action.

Funding for universities, masked by the fiscal illusion, has increased in recent years, but funding for further education has decreased. The Department for Education told us that funding for further education decreased by £1.6 billion from 2014-15 to 2017-18. Further education is, however an important route into higher education for those who do not pursue an academic route, but with low demand for some vocational courses, many colleges are unable to afford the cost of putting courses on. We said that the Government should explore restoring some teaching grant to further education colleges so that they can cover costs and stimulate demand for courses at levels 4 and 5.

With the accounting changes, there will no longer be a false choice between spending in post-school education that registers in the deficit and spending that does not. A proper debate can be had over where public money is best spent. As a starting point, we called for tuition fees to be frozen at £9,250 for the medium term. To assist with the debate on funding, we also recommended a single regulator across all higher education at levels 4 and above and a single regulator for all other post-school education at level 3 and below. The regulator for level 3 and below should have the equivalent status to the Office for Students, with sufficient resources and credibility to champion further education.

Our report is an appeal to the Government to treat students fairly by ensuring equal treatment and sustainable funding for all forms of higher education. This would help to create an even system of post-school education in this country that will support the economy by ensuring that we develop the skills we need and, most importantly, allow all our people to maximise their potential. I beg to move.

3.52 pm

Lord Sharkey (LD): My Lords, I declare an interest as a member of council at UCL. I am also a member of the Economic Affairs Committee, which produced

[LORD SHARKEY]

the report. The issues that our report addressed, which will be addressed by the Philip Augar review, are critical to the maintenance of a healthy and successful system for post-18 education. Given the limited time available, I shall expand on only a few of them, starting with part-time and continuing education.

The noble Lord, Lord Willetts, who I am very glad to see in his place, and whose contribution I very much look forward to, gave evidence to our committee. We noted that there had been a catastrophic 61% decline in the number of part-time students since 2010 and that this decline was probably an effect of the tuition fees regime. I asked the noble Lord whether it is something that we should be concerned about and, if so, what was the remedy. He replied:

“I would have to accept that is one of my biggest regrets of my time as minister ... We need new mechanisms for helping adults to study part-time and I accept that the loan model has not delivered for them ... a public spending package for adult learners, including helping mature students with the cost of tertiary education, be it university or not, would be a high priority”.

I thought at the time that this was an admirably clear and compelling answer. It was certainly clearer and more compelling than most of the answers we got to the question of how to promote lifelong learning. But there was general agreement that tuition fees and the equivalent level qualification rule were largely to blame. This rule means that students cannot access state support to study for a qualification equivalent to, or lower than, one they already have.

As enrolment of part-time students has collapsed, so have the institutions we need to teach these students. We have lost two-thirds of our continuing education departments in the last 10 years. To remedy this chicken-and-egg situation, more funding into FE and HE is needed—exactly as the noble Lord, Lord Willetts, said. Also needed is a reform of the ELQ rule and a proper, workable system of transferable academic credits introduced and enforced by the new regulator. If we do not resolve these issues and cannot establish a thriving and sustainable system for lifelong learning, the outlook for our productivity and competitiveness looks especially bleak.

The second area I turn to is maintenance loans. In the course of our inquiry, we invited students to talk to us about their current preoccupations—a very useful and enjoyable exercise. I think we were all surprised that the main source of anxiety was not tuition fees but the maintenance loan. In many cases the loan amounts now available are significantly less than the cost of accommodation and basic necessities. For example, the maximum loan for a student in London is £8,430. There are London halls of residence where the basic charge is more than this. In any case, the system is regressive. The IFS calculated that students from the poorest 40% of families will graduate with an average debt of £57,000. Those from the richest 30% will owe £43,000. The difference was entirely due to the maintenance loan entitlement and the accrued interest. We recommended that we reinstate the pre-2016 system of means-tested grants and loans and that the total sum available to students be increased to reflect

their real cost of living and be consistent across all post-school education, regardless of method or place of study.

The final area I will briefly discuss is the tuition fee loans, which—as the noble Lord, Lord Forsyth, said—we recommended be frozen at the current level of £9,250 for the medium term. There are reports that the Government may be thinking of reducing the fee to around £6,500, but who would benefit from this fee reduction? Certainly not the least well off. A London Economics study in 2018 found that if the fee were reduced to £6,000, say, loan repayments in the bottom five deciles would be unchanged and only wealthier undergraduates would benefit. This was because many lower-earning graduates will currently pay nothing, or close to nothing, in loan repayments over their lifetimes. But the HE sector itself would suffer a drop in income of over £3 billion. This sector contains an astonishingly disproportionate number of outstanding institutions and as a whole is a critical engine of growth in the knowledge economy and in the economies of many of our towns and cities. The Treasury would have to step in.

But does there exist a way in practice to defend direct Treasury funding from other calls on the public purse? Past experience shows that it is extremely unlikely that universities would compete very successfully for highly contested public funds. They would, I am afraid, be losers—so, in particular, would lifelong learning and part-time students on whose upskilling and retraining we must increasingly rely. I urge the Minister to recognise the great danger in such a reduction in tuition fees and to focus reforms instead on the proper provision of lifelong learning, the introduction of realistic means-tested maintenance grants and loans and a reduction in the absurdly usurious interest rates the Government currently charge.

3.59 pm

Lord Kerr of Kinlochard (CB): My Lords, over Christmas I read the report with great interest and a dawning sense of familiarity. I found that I agreed with everything in it—which was a great relief since I was, and am, a member of the committee that worked on it a year ago and published it in May. There is something wrong with our procedures. It took the Government three months to produce a rather bland and cursory response, in the middle of the Summer Recess, and, here we are, eight months after the presentation of this very important report, debating it.

It is a pleasure to serve on the committee, which is led imaginatively, inclusively and impartially by the noble Lord, Lord Forsyth of Drumlean, and it was a particular pleasure today to hear his loud praise for Eurostat.

Because the report was published so long ago, the Minister can now of course say that events have moved on—and that is partly true. The ONS change to the definition in the national accounts is highly welcome. I hope the Minister will tell us today that the Government are going to pay attention to the report on interest rates and to concede that it is not fair to students to charge 6.5% on money that the Government borrow in the markets at 1.5%.

I was chairman of Imperial for a time and I know a bit about universities. The bits of the report that I found most interesting were those dealing not with universities but with other parts of the higher education sector. The need to recreate parity of esteem between universities and further education institutions is really important. I am not going to say any more about that because the noble Lord, Lord Baker, will speak after me, and he is a world expert. However, I think that the linked issue of unfair and inefficient funding arrangements, and the rather savage budget cuts in further education, have produced very low morale in further education colleges. I hope that the Minister will respond more sympathetically on that point, which is clearly made in the report, than did his August paper.

My third point is that I became convinced that the case for reinstating the system of means-tested maintenance loans and grants, abolished in 2016, is absolutely overwhelming. If you are interested in helping people from a disadvantaged background, that is even more important than changing the interest rate on student loans. I need say no more about that because the noble Lord, Lord Sharkey, already has.

The final point that struck me was on apprenticeships. I was already aware that several large firms with well-developed apprenticeship schemes of their own were ignoring the government scheme. They are just paying the levy and treating it as a tax, and not bothering with the rigmarole of acquiring vouchers exchangeable for courses provided by recognised providers meeting nationally determined standards. The system was, and still is, seen by some of our biggest industrial companies as just too complex and bureaucratic: the game is not worth the candle. I think the whole committee was shocked to find out how slow and cumbersome was the process of agreeing the standards for such courses.

Apprentice numbers have gone down since 2015, when the target of 3 million by 2020 was set, and that target was pretty meaningless because it was framed in terms of apprenticeships started rather than completed—40% are not completed. It also does not distinguish between one-year and three-year apprenticeships. We concluded, therefore, that it encouraged the rebadging of training that should not be described as apprenticeships, such as MBAs at business schools—and here I apologise to my distinguished noble friend Lord Burns. For all these reasons, we were convinced that the target should be abolished immediately. In the Government's response—which was, as I said, a bit bland and cursory—that recommendation was completely ignored. There is nothing in the response in answer to the central recommendation that the target which is driving the apprenticeship scheme at the moment—and driving it in a number of wrong directions—should be abolished immediately. I hope that the Minister will provide some answer today.

The threats to universities posed by Brexit and immigration policy are well known, and our universities are world-leading and vibrant. But the state of the rest of the higher education sector—the poor relations—is much less well known. We need to crack the productivity problem, improve workforce skills and invest much more, absolutely and relatively, in the rest of the sector—in further education, in flexible, part-time,

mid-career and technical education, and in real apprenticeships—and return to maintenance support for those from less wealthy backgrounds. To create or restore parity of esteem requires not just words but action.

4.05 pm

Lord Baker of Dorking (Con): My Lords, I congratulate my old friend, the noble Lord, Lord Forsyth, and the other members of the committee on the excellence of the report. As my life is largely taken over by technical education these days, I have read many such reports and this is one of the highest quality that I have seen in recent years. It leads me to believe that this House ought to have a Select Committee on education, dealing with schools, universities, FE colleges, apprenticeships and the skills gap.

I am glad that the committee visited one of my UTCs—at Aston in Birmingham, one of the first—which train youngsters from 14 to 18. We are very proud that it has the best destination data of any school in the country. We deal with some difficult youngsters at 14—30% to 40% are challenging—but we have virtually no NEETs. Thirty per cent become apprentices, compared to 7% of a normal school, and 47% go to university, three-quarters of whom do STEM subjects. This is just what the country needs.

Another charity of which I am chairman produced three reports last year on the skills gap: the first on engineering, where the gap is over 100,000; the second on digital, where it is also over 100,000; and the third on the creative industries, which also has a gap of over 100,000. Now we are dealing with agriculture and horticulture, which will be the same. The skills gap is so large that the Government no longer publish figures on it, but it will be a major problem post Brexit.

I particularly support three of the report's recommendations. First, the Government should explore restoring teaching funding for further education colleges so that they can cover costs and stimulate courses at levels 4 and 5. The cut in further education since 2010 has been scandalous—a cut of far, far too much, which has to be restored. Level 4 is just above A-level, or diploma, and level 5 is foundation degrees. That is where the skills gap is and more money must be given to FE colleges for that.

The second recommendation I support concerns flexible learning. Higher and further education institutions should work closely together and with employers. It is important to get employers involved with this. Some universities do and some do not. Sheffield Hallam is particularly good and employability is at the centre of its drive. It is looking all the time for possible jobs for its students and works closely with employers. At our colleges, employers not only have control of the board but have to produce projects for the students to work on and provide apprentices. So we need employers working with higher education institutions.

The other recommendation I strongly support is that the Government should have a clear plan for degree apprentices within its broader HE policy. This is critical. Universities are beginning to toy with degree apprentices—I put it no higher than that. They are experimenting; it is new for them and they do not quite know how it works, but it is essential.

[LORD BAKER OF DORKING]

I agree with all the comments made by my noble friend about there being too much academic humanities education in our country today, where we have graduate unemployment and graduate underemployment. We have to improve technical education throughout the school system. It is depressing to realise that every attempt to improve technical education in our country since the great reform Act of 1870 have all failed. I hope UTCs will buck the trend.

On degree apprentices, I have come across a university in Stuttgart, Baden-Württemberg, which has only degree apprentices. Consider that for a moment. The students do not apply to go to that university; they are placed there by their companies, which pay them a salary to study there. In my view, this is a revolution, and I am going to visit Stuttgart to see how it works. The scheme is quite large—I think it has 3,000 students and covers engineering, quantity surveying and law. I am going to see whether it would be possible to create such an institution in our country. It would be a rather sophisticated form of a polytechnic if I could get it off the ground, and it is a very interesting idea.

Today, more and more youngsters will want to take technical education and technical degrees because that is where the jobs are. Two youngsters in our village both got first-class degrees—one in English from Oxford and the other in philosophy from York—and they are doing part-time, rather low-paid jobs. This is not what our education system should be producing. We should produce youngsters who are needed by the economy and could earn very high salaries. We should not forget that to be a higher apprentice at 18, you must have one A-level—not a mass of them—usually in maths or physics, and a BTEC extended diploma. Companies will then pay you £20,000 a year to study in further education. The Navy is so short of people that it pays 18 year-old students £32,500, and we provide many of those students for the Navy. This reflects the greatest need, and this is where we have to change radically our country's education policy. I congratulate the committee on stimulating this debate.

4.10 pm

Lord Layard (Lab): My Lords, I thank our great leader for the way in which he led us to produce what is, I think, a landmark report. For me, its most landmark feature concerns non-graduate vocational education, so I want to talk about our three main proposals in that area.

As we all know, Britain is good at higher education and bad at non-graduate vocational education, and this has big economic effects. Our graduates earn salaries similar to those of graduates in other countries, but our non-graduates earn very much less than our competitors. In my view, that is the main explanation for the greater wage inequality and lower productivity in our country. It is our Achilles heel, and the reason we are so bad at it is the way we fund it. The way we fund non-graduate vocational education is disgraceful and discriminatory, and it is worth comparing it with what happens to somebody who goes down the academic route. If you go down that route, you can be sure of a place at every stage. If you make yourself qualified, someone will take you in, and they are able to do that

because they are automatically funded for your education. There is no cap on the number of people who can go down the academic route.

By contrast, if you want to go down the technical route, you face capping at every stage. If an FE college wants to run a course, it goes to the Education and Skills Funding Agency and is often told that the money is not available. That is partly because the agency's budget is limited—we have heard how savagely it has been cut. Therefore, in my view, the number one recommendation which I commend to the House is that the funding of further education should be uncapped. If it were, we could liberate further education in the same way as we have liberated the universities. The overarching aim has to be to bring all non-graduates up to the vocational equivalent of at least A-level, otherwise known as level 3. That should be the central purpose of the liberation of further education.

That brings me to my second point, which concerns apprenticeships. Most non-graduates want to gain their qualifications on a part-time basis, earning at the same time as learning. This has always been one of the main avenues of social mobility in our country. I find it extraordinary that when people lament the decline of social mobility, they do not point at the correct reason for it, or certainly one of the key reasons. The top challenge for apprenticeship policy is to expand the number of apprenticeships up to level 3. Degree apprenticeships are of course a great idea, but it is even more important that we have apprenticeships at lower levels for as many people as possible so that there is a seamless path all the way up the part-time route, similar to the one that exists along the full-time route. Just to ram home the point: I had the privilege of working for the Robbins committee when I was young and the Robbins principle was that everyone qualified to proceed to the next stage should be able to do so. That is what we have done with the academic route but we have never done it with the vocational route; we should be doing so.

To build a system where this is possible will require a lot of leadership. We are talking about a massive change in the way we do things. At present, this sector has little clout and gets pushed around at will. It needs an organisation to champion it. That is why our committee proposed a council that would champion the sector. For the council to have clout it has to be a channel for the money: it should be a funding council for further education and for those apprenticeships not funded through the levy. It also needs to be responsible for generating enough apprenticeships for non-graduates to provide the seamless route that I am talking about.

The elite of our country is challenged as never before in recent times. It is charged with ignoring the needs of ordinary people. There is no area in which this neglect by the elite has been as shocking as in our approach to the post-school education of half our population—those who do not go into higher education. I hope the Minister can tell us how the Government plan to address the three proposals that I have mentioned: first, an uncapped system of further education; secondly, a seamless system of apprenticeship with special emphasis on the lower levels; and thirdly, a funding council for further education and apprenticeship.

Can the Minister assure us that these topics will not be at the bottom of the list but will be priorities in the Government's review? They are so important to the national interest. Can he assure us that this sector will not, yet again, get the short end of the stick?

4.17 pm

Lord Burns (CB): My Lords, I join others in thanking the noble Lord, Lord Forsyth, for his skilled chairmanship of the Economic Affairs Committee, in particular through this fascinating inquiry.

Many of us will make points about improvements that could be made, but we should at the same time recognise the welcome aspects of the system that has evolved over the last 20 years and not lose sight of them. One aspect is that we have increasing numbers of young people in higher education, including students from less well-off backgrounds. We should also recognise the system of income-contingent loan repayments, combined with the write-off after 30 years; although it produces some anomalies, as mentioned by the noble Lord, Lord Forsyth, it is still the case that, over an important range of earnings, those who earn the most quite rightly pay the most.

Another feature of the new system is that the cap on the number of students able to attend particular courses in particular universities has been lifted; that is another important step forward and something I would not like to lose. We have also seen that, with greater certainty in future incomes, universities have been able to borrow and invest in their critical infrastructure; this is another important aspect, compared to the uncertainties that existed in previous systems.

However, we are here today to emphasise some of the weaknesses of the system and what might be done about them. Without doubt, the biggest of these—as mentioned by the noble Lord, Lord Forsyth, and concentrated on in the report—has been the concentration on three-year undergraduate degree courses and the extent to which they have coincided with a decline in other types of qualification, including those which are cheaper, shorter and more tailored to the skill shortages of today. We have also seen a sharp fall in the number of part-time and mature students gaining degrees, which is a great sadness. As the noble Lord, Lord Forsyth, mentioned, although there is some progressivity in the student fees arrangements, there are also some anomalies. The decision to turn maintenance grants into loans has left those from less well-off backgrounds with a higher level of debt, and the very high interest rates charged on outstanding loans fall more lightly on those with higher incomes, who pay off their loan more quickly. That is a considerable anomaly.

Basically, the attempt to introduce competition and market incentives into this sector, while having some good results, has produced a number of unintended consequences. The fee cap has meant that almost all courses are priced at the maximum; competition has been almost entirely in terms of numbers of students rather than price or the quality of teaching; there is concern about too little attention being given to entry qualifications; and of course there is the point that has been mentioned about the considerable inflation in the class of degrees awarded. All these are things that we should be looking for ways to correct.

At the centre of many people's concerns is the feeling that for many students the returns from studying for a degree might not be what they had hoped, while at the same time the non-degree part of higher education is being financially starved. The committee's report presents a set of proposals. We have already heard about a number of them today and I shall mention two or three. First, if we are to increase the attractiveness of alternatives to the standard three-year degree, we have to incentivise both the institutions offering them and the potential students. As the noble Lord, Lord Sharkey, outlined, the proposals that we have presented are to provide more funding for other post-school options; to have a single system of funding, including loan funding and maintenance support for all full and part-time courses; and to have a single regulator.

My second point is that there is clearly a case for ironing out some of the problems with the funding system that are causing the most unhappiness for students. We spent a long time having meetings with students and talking about their experience. Without a doubt, the two issues that came up time and again were the level of interest rates on student loans and the need for those to be as recognisable as other interest rates, and switching maintenance loans back to maintenance grants so that poorer students did not end up with the largest debt.

My third point is that we should make a change in the transparency of what is happening with the loans that will not be repaid, and how this appears to both government and students. The noble Lord, Lord Forsyth, explained about the ONS decision to change the arrangements for how the write-off fees are recorded in the national accounts, and that change should lead to a more transparent treatment of loans in the public accounts. The expected write-off of student loans will now appear sooner, and we believe that over time this is going to lead to better decision-making in how resources are allocated.

However, I would personally like to see an attempt to apply a similar treatment to the amounts that are owed to students. Students who are likely to be on lower incomes after graduation now have a much more informed view of the income-contingent loans system than they did at the outset but they are still saddled for years with the existence of a large and growing outstanding debt, even if it is to be written off after 30 years. There is no doubt that this is extremely disheartening for many. Just as we want the Government to recognise the likelihood of debt write-off on an ongoing basis rather than waiting for 30 years, my own suggestion is that we should be looking for an arrangement that writes off part of this debt for the student on an ongoing basis as it becomes clear that it is not going to be repaid. That is not straightforward but I am sure there are ways that it could be done. It would make the whole process more transparent from the point of view of the student and the Government, and it would considerably reduce the levels of anxiety among many students.

4.24 pm

Lord Willetts (Con): My Lords, it is a privilege to participate in this model of rational, illuminating debate. It has already been a particular pleasure to appreciate

[LORD WILLETTTS]

the strong agreement between the noble Lords, Lord Kerr and Lord Forsyth. I draw noble Lords' attention to my entries in the Members' register of interests, particularly that I am a visiting professor at King's College London, I am a member of the board of UKRI, I advise the edtech company 2U and I am chancellor of the University of Leicester.

This is a very useful report, and it is already prompting lively debate. I very much agree with many of its proposals. I think 16 to 18 year-olds are the group that have had the roughest deal in the last few years. FE colleges are struggling under very heavy financial pressures. The means-tested maintenance grant was a valuable part of the system and it is a pity that it has gone; as a result of that, a low-income student will now leave university with more debt than an affluent student, which is not a defensible position. I also accept that we need to do more for part-time students. There is a lot here that I agree with.

However, there are some ambiguities at the heart of this report, beginning with the following statement in the summary on the very first page:

“one form of higher education has become dominant: the growth in higher education during the 21st century has been almost entirely as a result of ever-increasing numbers of young people going to university to study for full-time undergraduate degrees”.

That statement could have two different interpretations. One interpretation, which I would put on it and endorse, is that going to university should enable people to have a range of types of education; they should not be focused solely on honours degrees; it should be possible to study a level 4 or 5 qualification at university. That is why foundation degrees were introduced by the party opposite and why it is still possible to study HNCs and HNDs at university. That is one interpretation of the sentence. The other interpretation is that university is only for full-time, honours degree courses and other types of higher education have to happen in institutions other than universities. As we are blessed with the presence of so many members of the committee that produced this report, I hope that tension will be addressed during this debate. I believe that universities have a range of distinct missions and we should welcome this.

If I may say so, there is a similar ambiguity in references to technical skills. I am a great admirer of the work of the noble Lord, Lord Baker; these skills are incredibly valuable and this is clearly one of the weaknesses of our education system. This is a result of the grotesque decision that so many young people have to take when they specialise at the age of 16—wisely, this does not happen in the Scottish system. As a result of this, far too many young people give up maths at the age of 16, even though this is of such fundamental value, almost regardless of what they do in the modern world. Sometimes technical skills are talked about as if you could not possibly have a technical education at a university. That again ignores the very valuable role carried out by many of our universities, often the less prestigious ones. If you go to the University of Teesside or the University of Sunderland, you will find they deliver automotive engineering courses absolutely aimed at the requirements of the Honda and Nissan factories nearby. You will

find exactly the same at the University of Coventry and Oxford Brookes, linked to Jaguar Land Rover and the Formula 1 motor-racing industry. Those young people are getting a technical education in automotive engineering at a university.

What is the problem with that? Is it that we like what is happening, but we do not think it should be called a university education? It would be called a university education in America. In Germany, the technical high schools which deliver this type of education are in the process of gaining university titles. Treating those institutions as though they do not merit the title of university would be a mistake. It is far better to recognise that technical education happens in many places—a good thing, too. Of course, those universities often take students from more disadvantaged backgrounds. We are very fortunate to have the Minister with us, as he has responsibilities across the DfE. I invite him to endorse the principle of a pupil premium in school education—that schools which take on students from more disadvantaged backgrounds require more funding—and to accept that it would be a very odd result if we tried to apply exactly the opposite principle in higher-education funding, saying that the less prestigious universities, which tend to take the more disadvantaged students, should be further punished by having less funding for their education. The pupil premium should be a coherent principle that applies across education.

Sadly, I will not be able to touch on the funding issue, apart from to say that my other frustration with the report is that paragraph 276 states:

“There should be no change to the repayment threshold, the repayment rate or the term of the loans”.

My view is that, in the technical language, the RAB charge is too high. I fully understand why the debate has opened up about the accounting treatment of the repayment of loans, because such a low rate of repayment is now forecast. It is perfectly possible to use this model and to apply the basic principle that the typical graduate should repay in full. Therefore, I was disappointed, especially looking at the hard-faced Treasury men who served on it, that the committee did not investigate options such as extending the repayment period and lowering the repayment threshold—in other words, bringing down the RAB charge, expecting more repayments.

I end with a political comment, thinking back to my time in elective politics. We have ended up with a system that has a very high interest rate and a very high repayment threshold. That is a terrible combination. Far too many graduates see their debt growing every year because of the interest rate. This is an example of the problems caused by the “policy-making by speech” crisis. In the run-up to the Prime Minister's party conference speech there was a decision whether to change the interest rate or the threshold. The decision was made to raise the threshold. We should have a low-interest-rate—I completely agree with the committee on this—and low-threshold model where we expect graduates to pay back and not to face the pain of seeing their repayment obligations grow year after year.

4.31 pm

Baroness Smith of Newnham (LD): My Lords, like other Members of your Lordships' House I am delighted to speak in this debate. I think I am the first person to speak who was not either on the committee or recommended in advance by the noble Lord, Lord Forsyth, for what I was going to say—which means I have free rein. I will talk about treating students fairly, but I have not been told what my five minutes are meant to include.

Needless to say, like other Peers, I need to declare two interests—and a third that others might consider whether they too could have declared. My first interest is that I am employed by the University of Cambridge. My second, related interest is that in that capacity I run a part-time master's programme, linked with our Institute of Continuing Education that is intended to be about lifelong learning. While international relations might not sound technical or vocational, those of us who studied PPE thought that it was vocational at the time. Certainly we have some clear and active part-time activity in Cambridge that I will talk about.

The third thing I thought I should mention as an interest is that I am somebody who went through an undergraduate degree at Oxford where my fees were all paid—not by me—and I had a means-tested grant, so that at the end of my first year I could fund my 21st birthday party with the money I had saved from the grant. There was no need to borrow money. I came through an undergraduate degree with no debt—and I suspect that that will be true of the vast majority of Members of your Lordships' House.

One of the issues about treating students fairly that the noble Lord, Lord Forsyth, touched on in his opening remarks is essentially one of intergenerational fairness: what is happening with the current generation? What will happen with future generations? How will we fund higher education? That needs to be looked at again, because the current arrangements came about as a result of George “gilet jaune” Osborne, in his high-vis jacket, putting forward a set of policies that seemed to work in the short term. While the sleight of hand was slightly mocked by the noble Lord, Lord Forsyth, I thought that, if I were a Minister, I am not sure that I would be pleased or worried to have him on the same Benches, because you are not necessarily guaranteed an easy ride.

This report is not about having an easy ride. Two of the most exciting things about the report are, first, that it is not a report about Brexit, and, secondly, that it is willing to say that there are things wrong with higher education and further education, and that some institutions should be abolished. How often has any Government set up an institution or an organisation and at some subsequent point said “We can abolish it”? Normally we just add another institution and another institution—so this is a remarkably refreshing report, and one that highlights a set of key interests. Like other noble Lords, I stress the importance of ensuring parity of esteem between vocational and technical education and undergraduate degrees.

The report notes that in the 1960s, only 5% of people went to university, and now it is 50%. That has a set of merits; one thing that has been missing from

the debate so far is the purpose of education for its own sake. We have talked very much—maybe appropriately for an Economic Affairs Committee debate—about the economic side. But education does have a value in and of itself, and for some people, going to university has an intrinsic value that you cannot monetise. But does it have that intrinsic value for 50% of the population at 17 or 18, when they are filling out their UCAS forms? I suggest that it does not. I think that the value of higher and further education is about lifelong training. It is not about what you might do as a rite of passage at 17, 18 or 19. One of the downsides of the commitment to send half the population to university at 18 is that people are not being trained in the skills that are needed.

One of the issues—I am afraid that I am going to mention Brexit—is why we have so many EU migrants working in the United Kingdom. In part, it is because they have the skills and the technical training that the British education system has not provided. Whether we leave the European Union on 29 March or not, we need to rectify that. It is essential that this country has the required skills base.

There is also a question about the value of a degree. When I went to university, there was a premium. You were likely to earn more if you had been to university. That premium no longer exists in the same way, so the economic arguments that were put forward when we introduced tuition fees—and when they were raised—no longer apply.

The final thing I will say is about the importance of maintenance grants. Ideally, I would go further than this report recommends and suggest that means-tested grants be introduced without the loan component. That might not be financially affordable, but there is something perverse about the idea that if you are middle-class and your parents are wealthy, the better able your parents are to pay your university fees and ensure that you can live comfortably and pay your rent, the more likely you are to leave university with no debt, while those who may have the greatest aspiration, the greatest desire and who would benefit most from the transformational aspects of university life do not have the same opportunities because they are having to borrow money to subsist. That needs to change.

4.38 pm

Baroness Finlay of Llandaff (CB): My Lords, I am delighted to speak in this debate and welcome this report, which is easy to read and which the whole university sector should look at in the light of each university's strategy. I declare my interests: I hold an honorary chair at Cardiff University, where I have run postgraduate master's training. Because I am in medicine, all my educational experience has been in vocational training. However, I am now also chair of governors at Cardiff Metropolitan University, which is one of those small universities people may feel is a bit lower down the scale. I would question that, because it has made us think about our role as a university in the economy of south-east Wales. I also have the advantage of being on the European Advisory Group to the Welsh Assembly Government. We are therefore able to link closely the economic needs of south-east Wales with what we provide educationally.

[BARONESS FINLAY OF LLANDAFF]

I want to focus on that perspective in the short time that I have, and particularly on the things we have been doing to try to turn this around. We are well aware that in south-east Wales we have a large number of people who dropped out of school early, went into jobs, had families—they may now be single parents—and much later on have decided that they want to learn. They know what they have missed out on and want to go back to university, but they need to do so part-time and with flexible hours. They also need flexibility so that they can still care for their children. We are already strongly aware of the need for part-time courses and have looked at further education, where we want to take our numbers from 25 up to 500. That may be ambitious but we are aware that the need is there. We would also rather like to see parity of esteem at every level, including that our students go through and that their degrees are viewed as being as valuable as anybody else's.

From the European perspective, though, we in Wales are well aware that the report in 2017 from Universities Wales demonstrated the strength that was being brought by having 22,000 students from 140 countries all over the world. Since 2016, we have seen a huge drop in these numbers.

This report is called *Treating Students Fairly*, so I went to our student president, Ieuan Gardiner, who pointed out two things to me. His points are really worth making. One is that students are expected to live on remarkably low incomes. Student finance expects a student to work at least part-time—16 hours per week—to make their loan a liveable sum. How is that linked to full-time studying? Students who are poor are shackled by having to go to work to earn more money. They therefore have less study time and are often tired because the jobs they can do are nights, evenings, weekends and so on, which is very difficult. The degree they may come out with will be lower through no fault of their own but simply their poverty.

Another problem is that if means-tested grants are based on parents' income, they must account for situations where a student is no longer in contact with their parents—I am afraid that that applies to quite a lot of students, particularly those from so-called disadvantaged backgrounds who may come from chaotic families or have escaped from abusive situations—or where the parent has died. The information asked for is bound to be in-depth and they will be unable to access it, so that needs to be allowed for. Another concern is that if you are claiming benefits, you get better “perks” than a student, with free dental care and so on. Those things have to be addressed.

Ieuan's second point related to careers. If we are to have students going through and graduating, they need to learn about life after university while they are at school so that they make good choices for life, not just for the next stage in their career. I thought that point was extremely valid.

I will spend my concluding moments on a couple of things that we are doing. Our university won an award for its knowledge transfer partnership, after working with a window-cleaning system, which your Lordships may think is a bit strange. However, we have developed,

perfected and tested innovative, waterless cleaning processes appropriate for the external surface of an aircraft. The problem with wet aircraft is that the water can freeze and so on. Using our Perceptual Experience Laboratory at Cardiff Metropolitan, we have been able to work with Window Cleaning Warehouse to the benefit of everybody: it now has large aircraft contracts.

We also recognise the shortage of technologies and are developing a school of technologies, with new programmes in computer security—an enormously growing area—data science, robotics and artificial intelligence. We are linking that with our school of art and design because computer-generated graphics in the film industry and advertising are the development of the future. This has to be multi-profession. It has to think about people working in completely different ways to pursue technology, and allow the career chances of our students to be completely different for the future. We must learn from places such as France and Germany, where they have *écoles techniques* and *Technische Hochschulen*, which have university status—very high status, actually—and value, and are training people for jobs for the future. That is what we are trying to do, and I hope we might do credit to this report.

4.45 pm

Baroness Jenkin of Kennington (Con): My Lords, I am grateful to my noble friend Lord Forsyth and the Economic Affairs Committee for this valuable report, which should be a massive wake-up call to all those who care about our future workforce. As a member of the Select Committee investigating intergenerational fairness and provision, I have to say that the evidence my noble friend gave to that committee on the back of this report was among the most powerful and compelling that we heard, and the recommendations of our report will have been influenced by it. The report focuses on strengthening alternatives to higher education and making student finance more effective. As the report says:

“A monoculture has developed around the primacy of the undergraduate degree which has crowded out other options which are perceived as inferior. This situation is not helped by the paucity of information available to young people; the incentivisation of schools to send pupils down the academic route; and employers requiring degrees for jobs which do not really need them”.

Today I should like to bring to your Lordships' attention a topic that is not referred to in the report, but is important to its objective of addressing skills shortages: youth full-time social action, or FTSA, as it is known. FTSA is undertaken by full-time volunteers aged 18 to 25 who devote up to 35 hours a week for six to 12 months to improve the lives of vulnerable people. Over recent years I have met a number of the organisations involved in this work. City Year UK volunteers, for example, tackle educational inequality in schools in poorer communities through one-to-one tuition and in-classroom support, ensuring that no pupil falls behind due to their socioeconomic background. Full-time volunteers with Depaul UK support homeless people, while those with Volunteering Matters support the health and social care sector. No one is suggesting that full-time social action be considered an alternative to

higher education. Indeed, FTSA should be seen as an option that develops key skills in young people regardless of the route they take post-school, boosting their work-readiness and employability.

Despite hours of voluntary service to their communities, young full-time volunteers in the UK are classed as NEETs—not in education, employment or training—and receive no support from the Government. Contrast this with those in the USA, France and Germany who participate in government-backed national programmes, such as AmeriCorps in the United States and Service Civique in France, which offer a range of areas to be involved in, including education, environmental action and disaster relief. In return, they receive rewards such as reduced tuition fees and debt forgiveness. It is clear why there are only around 1,000 full-time volunteers in the UK compared with tens of thousands involved in FTSA programmes abroad. With greater support for the young people participating in FTSA in the UK and the establishment of an equivalent national programme, we would make good progress against the report's ambition of addressing skills shortages. The report highlights how many young people coming from both university and technical routes lack key workplace skills such as teamworking, communication and time management.

FTSA places young people in positions of responsibility where they can rapidly develop such skills. For this reason, 93% of City Year UK volunteers are employed or in education within three months of completing the programme, and 95% of alumni said they had developed skills that will help them secure future employment, particularly leadership and communication. Some 80% of Service Civique participants reported that they had acquired professional skills useful to their futures, and as a result of skills built during their programme, AmeriCorps alumni have been found to have a substantially higher likelihood of finding a job than those who did not participate.

While the Economic Affairs Committee—and the noble Lord, Lord Forsyth, in particular—highlighted the increasing amount of money lost in the student finance system through loans that will never be paid back, FTSA schemes such as those I have mentioned today result in a return on public investment. Analysis by Pro Bono Economics demonstrates that the net benefit to the UK economy of 10,000 full-time volunteers would be up to £119 million per year, showing that the Government stand to benefit from investing in a programme of youth full-time social action.

Despite FTSA's positive effects on young people's skills development, and the Government's independent review of FTSA recommending the establishment of a government-backed pilot scheme, we are yet to see decisive action. FTSA builds the work-readiness of young people and should feature in any discussion of careers guidance and skills development. This will not happen, however, if we continue to overlook the evidence. What plans do the Government have to raise awareness among young people of FTSA opportunities so that they can have the opportunity to supplement their post-school qualifications with the development of crucial workplace skills?

4.50 pm

Lord Bilimoria (CB): My Lords, I congratulate the noble Lord, Lord Forsyth, and his Economic Affairs Committee on their excellent report, *Treating Students Fairly: The Economics of Post-School Education*. On Brexit, the noble Lord and I are at opposite ends of the spectrum, but in the 12 years that I have been here, on almost every other issue, we have been on the same page.

The report states right up front:

“Successive governments, over many decades, have pursued and encouraged the expansion of higher education. These efforts have succeeded: in the 1960s, five per cent of young people went into higher education; today, around half of young people do ... By contrast, the number of students graduating with other higher education qualifications ... have declined in recent years ... with an 88 per cent reduction in enrolments at the Open University over that period for qualifications at Levels 4 and 5. There has also been a ... decline in the number of qualifications awarded to adults at Level 3”.

So there is a problem here. On the other hand, the report continues:

“The UK does however produce more workers with undergraduate degrees than similar countries”.

The report states that the reforms to financing for university funding that happened after the 2010 election, “failed in their aim to create an effective market amongst universities”.

I remember this clearly. When tuition fees were tripled in one go, from £3,000 to £9,000, the Government of the day said, “This will create a market and people will then be able to choose which degrees they want to do and which degrees are worth more”. What did they do at the same time? People did not notice it, but they withdrew teaching funding hugely. I was chancellor of Thames Valley University—or the University of West London—at the time. What did universities do? They had no option but to charge the maximum £9,000 to cover the lack in funding for tuition.

Loans have been a huge issue. The report looks into them in great detail, saying that the total student loan book will be worth £1.2 trillion in nominal terms. That is a huge figure. The report talks about reforms. Is it worth having student loans but then saying that in the long run they will not be repaid? The report's analysis is very good. It then talks about maintenance support for students being inconsistent across different areas.

The report states that,

“the Institute for Fiscal Studies suggests that students from the poorest 40 per cent of families will graduate with an average debt of £57,000; their peers from the richest 30 per cent of families will owe £43,000. This £14,000 difference is entirely due to maintenance loan entitlement and the accrued interest”.

Other speakers have referred to the unfairness of this system, which continues after graduation. The report states:

“Data published by the Department for Education show that students entitled to free school meals have lower average earnings after graduation; five years after graduation those eligible for free school meals earned 13 per cent less than those not entitled”.

This does not seem fair. The University of Cambridge, where I am chair of the Cambridge Judge Business School and an honorary fellow of my college, Sidney Sussex, said that,

[LORD BILIMORIA]

“no interest should accrue until graduation, with a sliding interest rate dependent on earnings afterwards that was capped at CPI plus one per cent”.

It pointed out that this would not cost the Government much in the long run, in light of the proportion of student loan lending that is written off under the present system. Does the Minister agree?

I am chancellor of the University of Birmingham, which again agrees with a lot in this report. We are concerned about the fact, which most people do not realise, that many students are significantly concerned about meeting their living costs while studying. For some students these problems are of far greater concern than the tuition fees. The Government’s switch from maintenance grants to loans had a more significant impact on those from more disadvantaged backgrounds, who need to take out higher loans for living costs, as I have just pointed out, and so have higher lifetime loan repayments. It just does not seem fair or right. The university is also concerned that the switch has deterred poorer local students from applying to study at the university in the first place. Does the Minister agree? The University of Birmingham would support the reinstatement of government maintenance grants, funded by new money, targeted to those students who need them the most. It is essential that this should not be at the cost of reducing funding for universities in other ways. Any reduction in income for universities would have an impact on the student experience. Universities would have to reduce investment in teaching or other educational activities that support high levels of employment.

My other point concerns this distinction between universities and further education. At the University of West London, I remember we used to have the saying “Further to higher”. At the University of Birmingham, we partner with University College Birmingham in delivering courses. We partner with industry—that should also be taken into account. The University of Cambridge is also worried and says that it already subsidises, on average, more than half the cost associated with the education of each home undergraduate. It is worried about any cuts and says that if there are cuts to domestic students, it may be forced to increase the number of international students. That is also a concern. If Britain leaves the European Union and focuses on delivering its industrial strategy, supporting growth and innovation productivity, it is essential that the UK’s unique asset of world-leading, university-based research is not threatened—for example, by disruptive changes to university funding. Research is also something that not many have spoken about.

Before I conclude, I want to mention two other points in the report. Spending on 16 to 19 education has been badly hit. Total expenditure has fallen by 17.5% between 2010 and 2017. What are we doing? This is a key stage, which we should be funding.

Turning to adult education, the report says that,

“adult education funding has seen significant reductions”.

Related to this decline, older students are more likely to study part-time. I mentioned that the effect on part-time education has been drastic. The number of part-time

students aged over 30 has fallen by 41%. There is a growing consensus, nationally and internationally, that with the advance of machine learning, AI and robotics, post-school education will become of increasing importance to societies and economies. There will be an increasing need for lifelong learning, extending beyond school and, for those who go to university, beyond their university degree as well. Continuing education contributes positively to well-being and health, which, as well as being an intrinsic good, has positive consequences for the economy through the health of the population and the workforce. Some 60% of those entering primary school in 2018 will ultimately work in jobs and functions that do not currently exist. By 2030 there will be a talent deficit. Half the subject knowledge acquired by first-year undergraduates is out of date by the time they graduate.

Then there is the challenge of Brexit. Learning and improved life chances should not stop when you reach your 20s. This was recognised in 1919 in a report on adult education, and I am proud to be a member of the Centenary Commission on adult education, which has just been launched and had its first meeting. Dame Helen Ghosh, the master of Balliol College, is head of the commission and we will report later this year. I urge the Economic Affairs Committee to take heed of our report, because this needs to be at the heart of our endeavours to improve the prosperity of our country and the well-being of our people.

Baroness Goldie (Con): My Lords, we were doing pretty well, time-wise, but can we just keep an eye on the clock? We are beginning to slip a bit behind the estimated schedule.

4.59 pm

Baroness Harding of Winscombe (Con): My Lords, as a member of the Economic Affairs Committee, I congratulate our excellent chairman, my noble friend Lord Forsyth. I reassure the noble Baroness, Lady Smith, that none of us has been told what to say. I may be a relatively new Member of your Lordships’ House and a very new Member of the Economic Affairs Committee, but I do not think it is the committee’s style to take direction.

This is the first Select Committee inquiry I have served on, and I do not profess to have any specialist knowledge or experience, other than as a student long ago. Therefore, I have approached this from the perspective of a businesswoman. As a businesswoman, I started the inquiry—perhaps naively—with two assumptions. The first was that our education system was gearing up for the changes that everyone in the world of work can see are coming, even if none of us knows the timing or can predict accurately what they will mean, as the noble Lord, Lord Bilimoria, has just set out. There will be huge changes in job mix as the digital revolution gathers pace, and all of us will live longer and healthier lives, having multiple careers in our—we hope—upwards of 100 years. Therefore, there will be for everyone a need for lifelong learning. Two-thirds of the 2030 workforce has already left full-time employment—that is taken from Matthew Taylor’s

review into the world of work. We know that the jobs available will be very different, and that people will have multiple careers in their lifetime.

My second assumption was that the critical issues would be those which I saw being debated in this House, in the other place and in the media—namely, the student loan financing arrangements for those studying at universities. It was quite a shock to me as a new committee member to discover quite quickly that neither of my two assumptions was true. Skills shortages are generally not about graduates. We are lacking technical skills, as we heard earlier. We have graduates doing non-graduate jobs, and our education system is totally geared up to training 18 year-olds for three years in full-time degree courses, rather than preparing for the world of lifelong learning.

The decline in part-time education is massive and terrifying, with 200,000 fewer part-time students than in 2010, an 88% reduction in enrolments at the Open University over that same period for qualifications at Levels 4 and 5, fewer adults doing Level 3 qualifications and a huge imbalance in funding into further education and flexible education versus full-time university education. All of this is at a time when we should be gearing up lifelong learning, and developing the technical skills that it is clear the digital revolution will require of us as a society. It is hard not to conclude that this is a slow-running train crash, where, politically, we are debating the wrong issue and the system is geared up to solve the wrong problem.

As a number of speakers have already recognised, our committee is clearly not the first group of people to have noticed this over the course of maybe 100 years. There are today various initiatives attempting to address this: T-levels, the apprenticeship levy and maintenance grants for part-time students that will kick in during the coming year. I am sure my noble friend the Minister will point to all of these things, as the Government have in their response to the report.

Unfortunately, as our committee report sets out, these well-intentioned actions are not actually working. We heard some very troubling evidence during our inquiry about the lack of funding and the extraordinarily complex oversight and different funding models for FE. We were dismayed to hear that, since the introduction of the apprenticeship levy, many employers have been rebadging existing training schemes as apprenticeships in order to reclaim their levy contributions. One employer openly admitted it to the committee at a round-table event.

We also heard that employers were using the levy to send employees on MBAs—I have an interest here, as I have an MBA. When we challenged the civil servant in charge of the National Apprenticeship Service about this, she replied that she was an apprentice herself—she was doing a chartered management apprenticeship. This seems a long way from what I think we all believe to be the spirit of apprenticeships.

Hearing the advice on timing, I will not repeat the specific recommendations that other speakers have listed. There are a number of things that we believe can be done now to make it easier for adults to study for further qualifications. Specifically, we need a proper,

credit-based system that enables people to dip into and out of training and develop their education career through their whole life. That would make it easier to study later in life. We also need the right fee structure and support structure for part-time adult learners, and we need to equalise the routes for part-time as well as full-time learning.

However, there is something bigger. As the noble Lord, Lord Kerr, said, we need to establish a parity of esteem between part-time, flexible, lifelong learning and full-time learning in a university, doing a first degree when you leave school. It is possible to do that. Over the course of the last 15 years, we have meaningfully shifted the dial in people's expectations about university education. I urge the Government and the Minister to set out how the Government will champion the shift. It is partly about funding, partly about different incentives, but also about our attitude in society. We want all mothers—I say this as a mother who went to her 13 year-old daughter's careers fair last night—to aspire either to a further technical education route or a university education. I do not want what I saw at the London school my daughter attends: a whole room full of stands for different universities and one rather sad stand about apprenticeships by the coffee machine. We need to reinstate that balance and parity of esteem, and if we can do that, the future will be exciting. We should learn from how we shifted the dial on perceptions of university education and apply that to further education as well.

5.06 pm

Baroness Bowles of Berkhamsted (LD): My Lords, this was an amazing inquiry to be part of. In particular, it was amazing to visit the students and apprentices, and I came away thinking, "I want to go round again". But as we all know, we are not necessarily providing the right kind of people. As a shortcut, I will identify with everything the noble Baroness, Lady Harding, just said. At the end she also provided the answer to the first question from the noble Lord, Lord Willetts, about what we meant in the introduction. We were not saying that universities were a bad thing but that the concentration on the honours degree has sucked away from everything else.

I will, alas, return to the nerdy issue of the national accounting treatment of student loans, and will perhaps fill in a little more of the character around the issue. The UK's design of student loans is unusual, in particular because it is designed so that a part of it will definitely be written off. It is therefore not all a loan. Payments are made only above a certain threshold, which I think is now £25,000, but the intention is that in order for some redistribution to happen, the more you earn, the higher the interest rate charged. It starts at the lower end at RPI, but by the time you earn £41,000, it is RPI plus 3%, which seems to be quite a sting, getting over 6%. In chapter 8 of the report we explain how the redistribution does not work in practice and how it tends to hit those most who do not quite manage to pay off the loan and get stuck with it for the full 30 years, whereas higher earners get it paid off quicker and do not pay the interest for quite so long.

[BARONESS BOWLES OF BERKHAMSTED]

Because of that fact of getting stuck with a loan for 30 years, we did not think that an extension to its term would help anybody. That comes to the heart of the second point raised by the noble Lord, Lord Willetts. Those same people who are already hit the most would be the ones hit for another five years or so, so we tackled this a different way round and said that you should not start accruing the interest while you are still an undergraduate. To add it on over those three years on the full amount is a big hit right at the beginning, which then rolls up over those years. The other egg in our basket was to reduce the loan rate.

The state of student loans, the loan book and how much is likely to be repaid is published by the DfE. The calculations are complicated, but are not a secret and the analysts who look at national systems of accounts know about them. However, the amount that is not expected to be repaid does not appear in the national deficit calculation until it is written off, and that has a flattering effect. That is what I call IFRS—the accounting standard for countries. Anyone who knows me will know that for me to say that is not complimentary.

Dr Andrew McGettigan, an expert on higher education policy, questioned whether it was reasonable for the transaction to be treated entirely as a loan, because it is not, and therefore whether we should do something about the accounting with regard to the expectation of what is and is not going to be repaid. In its evidence to us, the ONS said that it had no choice, that:

“ESA [20]10 is an international standard [...] there are some snakes and ladders in the system”—

a good description of IFRS—and that you,

“must follow them and you cannot pick and choose when you do and when you do not”.

Unfortunately, this was a bit of a red rag to a bull because, as has been hinted, I know a little bit about ESA 2010, because I was chair of the committee that took the legislation through the Parliament—in fact, I was also the rapporteur. We looked at all the wizard wheezes that the 28 countries got up to, because what appears in the deficit is very important for eurozone countries. They can go into nasty procedures that do not affect us. We had a great interest in that, and I knew that we had paid attention to what happens when the amount that will not be repaid is on the never-never and is never going to be repaid. So I kind of knew what Eurostat might say, which is on page 109. It was that the accounting treatment switches when more than 50% will not be repaid.

To cut a long story short, the ONS, under the pressure that we put on it, changed the treatment so that it is not now a loan treatment; it is partly spending, partly loan. Otherwise, we might have the absurd situation where as we hover around 50%, we swap between accounting treatments. I do not think that yo-yo would be a good idea. That is what the ONS has done.

The effect of it being included in the deficit is that it is under the Chancellor's nose and will get looked at. It will be looked at for what it does and what it is worth, not for its accounting treatment, and one should therefore look more favourably on the other recommendations of the report. We have got that one, let us get all the rest.

5.12 pm

Lord Kerslake (CB): My Lords, it is hard at the moment to drag one's thoughts away from the Brexit drama that is going on around us. Nevertheless, I am pleased that space has been found for what I think is a timely debate on an important report. I declare my interests as chair of the board of governors of Sheffield Hallam University—I thank the noble Lord, Lord Baker, for his positive comments—and chair of the Civic University Commission.

This House produces many reports, some of which have little or no impact and some of which have a significant effect on a debate. This report most definitely falls into the latter category—not least because of the issues it has raised about how student loans have been treated in the public accounts. I strongly agree with the analysis in the report of this and other issues, such as further education, but I do not share the scepticism about the value of expanding university education.

We have now had the report from the Office for National Statistics, which vindicates the concerns raised by the committee and, as we have heard, proposes a new accounting treatment to properly reflect the estimated unpaid debt. The principle seems absolutely right, although we will have a lot of debate about what the actual numbers should be.

In some ways, the damage from the current distorted treatment has already been done. I am pretty sure the changes introduced by the Government for short-term political reasons in 2017—as we heard from the noble Lord, Lord Willetts—would have been different had the alternative accounting treatment been in place. The cost of raising the threshold for repayment was way downstream, whereas the income from raising interest rates was immediate. The effect was to make an already unfair system even more unfair. Well-off students could repay quickly with lower interest costs. Students whose income stayed below the £25,000 threshold paid back nothing. Those in the middle got the worst of all worlds. The committee was absolutely right to draw attention to this gross unfairness. We either need to try to make the model work as originally intended—there is a question mark over that—with perhaps some direct public funding for specific purposes, such as higher-cost degrees, or to look again at whether the loan-based model is right. What we have now is both unfair and unsustainable.

The timeliness of today's discussion comes from the fact that the Augar review of higher and further education funding is due to report shortly. We do not know with certainty what it will say. However, if the rumours reported in newspapers are correct, I fear we are about to make another basic error. A view seems to be forming that HE and universities have got too big and FE and colleges too small. For me, this is a completely specious trade-off. The enormous cut in FE funding, which we have heard a lot about this afternoon—second only to the cuts in local government—was a consequence not of resources being transferred from FE to universities but of decisions made in the austerity period. The savings made in higher education from shifting the burden to student loans arguably mitigated some of the potential impact of cuts.

Universities have grown because more young people want to go to them. There may not be a market in the level of fees but there certainly is in the numbers of students. It therefore follows that we should tackle the genuinely huge problem of further education on its own terms and not think that it is about robbing one part of the system to support the other. Lots of students of all ages make a decision and, as others have said, they need to have the choices in front of them on a level playing field. A cut in university fees from £9,000 to £7,500—not even the £6,500 we heard from the noble Lord, Lord Sharkey—would have an enormous effect on universities, unless it is replaced. We know it would be regressive in its effects. In the case of Sheffield Hallam University, there would be a 21% drop in our income. That would be a huge and damaging change. The Augar panel has some very able people on it, not least Philip Augar himself, and I hope the rumours prove incorrect.

Finally, the Civic University Commission is an independent group looking at the role of universities in supporting their local places. For me, this is a vital and increasingly important role. It is relevant to this debate because what should happen at local level is collaboration between universities, places and further education to develop a provision based on the local needs of that area. That goes back to the original civic purpose for which universities were created. We launch our report on 13 February and I hope fellow Peers will be able to join us. One of the key issues we raised was the calamitous fall in adult education, something we have covered well today. This is not an inevitable decline but a direct consequence of government policy. If you go to Scotland or Singapore, you will see that they have maintained the investment in adult and part-time education. It can be tackled, and in our interim report we set out some practical steps to do this.

I genuinely hope that one of the outcomes of the very good report we are debating today, and indeed of the Augar review, is that we reverse this terrible trend that we have seen in recent years.

5.20 pm

The Earl of Dundee (Con): My Lords, I join others in welcoming the timely introduction of this debate, and I congratulate my noble friend Lord Forsyth of Drumlean.

I will briefly address a few prescriptions of the Economic Affairs Committee report: the need for greater encouragement of post-school options other than full-time university courses; the case within employment for building up apprenticeships in a steady and proportionate way; the need to improve financial support for students from poorer families; and—aside from the report, yet central to our theme—the imperative of adjusting present arrangements in the United Kingdom for international students.

On bridging the divide between full-time university courses and other options, the Government will tell us that this year, for the first time, maintenance loans are available to part-time university students; and that under their current review, they want to come up with new ways to promote flexible and part-time routes of

study for all age groups. Laudable though these intentions are, it has to be cautioned that, without adopting certain recommendations before us, any government package runs the risk of not amounting to very much. For example, to enhance flexible learning—to which my noble friend Lady Harding of Winscombe drew our attention—the report is in favour of a credit-based, modular system allowing people to choose their own pace. Thereby, as instanced, credits attained by those studying a level 4 qualification would thus contribute towards, as well as lower the cost of, a full degree. Does my noble friend the Minister agree that such interventions would significantly reduce the current level of unfairness between the two separate post-school education groups?

Then there is the associated objective of a more even provision of loan and grant funding across higher education. The Government claim that they will decrease funding differences, assist transparency and remove barriers to choice, but will their plans really go any further than simply tinkering at the edges? That apart, to what extent is my noble friend prepared to adopt the proposed expedients of this report, already mentioned by my noble friend Lord Forsyth, such as a single regulator for all level 4 and above higher education and a single regulator for other post-school education of level 3 and below? The purpose of that would be a better distribution of funding to all forms of post-school learning, regardless of where and how it takes place.

On apprenticeships, the Government comment in their response to this report that,

“for too long apprentices have not received the quality of training we would expect”.

That is true, yet unfortunately it is also an understatement. For over a generation, and under both Labour and Conservative Administrations, our record of engagement—to which my noble friend Lord Baker referred—has consistently lagged behind that of other national competitors, to the deprivation of young people and to the detriment of our economy. Therefore, to catch up now, if that is our resolve, all the more so must we beware of soothing, half-hearted or even quick-fix offerings; and instead grasp the nettle along the lines of this report.

Ironically, one of the report’s concerns is that we may now, too much and too rashly, be approaching the opposite extreme. As the noble Lord, Lord Kerr, reminded us, the Government’s target of 3 million apprenticeships rushes into putting quantity above quality. The report warns also against a fresh level of incompetence likely to be caused by lack of clarity over the delivery and quality of apprenticeships. Does the Minister accept these strictures? In addition, does he concur that the Government must, as the noble Baroness, Lady Smith of Newnham, suggested, have the courage to follow the report’s advice that institutions should, where necessary, be abolished—in this case, the Institute of Apprenticeships, with level 2 and level 3 participants to be supervised by a new further education regulator and those at level 4 by the Office for Students?

The report advocates reforms to student loans and a widening of maintenance support, including, as stressed by the noble Lords, Lord Sharkey and Lord Kerr,

[THE EARL OF DUNDEE]

reinstatement of pre-2016 means testing for loans and grants. Maintenance grants replacing maintenance loans causes poorer students to graduate with the largest debt, as the noble Lords, Lord Burns and Lord Bilimoria, have already pointed out. Does my noble friend, therefore, acknowledge that to switch back would be both fairer and more realistic—not least taking into account the extent of loans outlay being written off—given that most students do not fully settle their liabilities over the 30-year period?

It goes without saying that international students who stay in the United Kingdom benefit our economy considerably. However, in recent years, we have failed to sustain numbers against our national competitors, even in non-English-speaking countries that nevertheless and increasingly offer good courses in English. Does my noble friend believe that we should no longer classify international students as migrants and that to do so is as misguided as it is paradoxical in three main respects: first, they are not migrants; secondly, being so called often puts them off applying to come in the first place; and thirdly, any political party eager to earn points for reduced immigration thereby adds to its own burden irrationally and unnecessarily?

For the United Kingdom and elsewhere, clearly there is an urgency for less inconsistent and greatly improved education opportunities and standards. Key to success is equitable treatment between national and international students, the steady building up of apprenticeships and, as guided by this useful report, robust adaptations of organisation and delivery.

5.26 pm

Baroness Deech (CB): My Lords, how refreshing it is to have a report that takes a holistic view of higher education funding. From Lord Robbins onwards, we have had a series of reviews of university funding taking an overly market approach. In this report, astonishingly produced in under a year, we have a new attitude. It has pipped the Augar review to the post and is a perfect example of the good work that can be done by the committees of this House.

We have reached saturation point in undergraduate degrees and in international students. We are not treating the latter as well as we should; and when we have too many, they do not get the British university atmosphere that they came here to enjoy. If we rely too heavily on international students for income, our universities become vulnerable to a change in the taste for foreign study or restrictions placed on studying abroad by our main suppliers, such as China. More international students will eventually impact adversely on home undergraduate numbers through housing and teaching pressure.

Student loans are not working. Half will never be paid back. It was predictable from the start of the new system that many people would never earn enough to repay them. Indeed, it indicates to women that government policy makes it sensible to find a husband while at college and never work, or take the lowest-paying part-time jobs to avoid reaching the threshold for repayment. Outstanding student debt will reach £1 trillion by 2035, it has been said. The Student Loans Company

has found that 78,700 former students who owe money have left the country owing an average of £15,000 each. A quarter are EU students, who will continue to be eligible for loans if they have started a course before we leave the EU. It will be no bad thing for them to be treated as being as financially responsible as other international students, who outnumber them year by year.

Tuition fees have to stay as they are. They have replaced government funding. A cut, as has been suggested, in fees for one student by, say, £1,000 a year, may result in a loss of millions by universities; the first economy they might make would be the valuable outreach and student support funds that have done so much to attract disadvantaged students and keep them on course.

As for the Corbyn election gimmick of abolishing fees, that would simply place university funding entirely in the hands of the Government. Government budgeting would soon mean universities or courses closing, numbers reducing and a reversal of all that has been achieved by way of social mobility in the past few years. Flexibility, as recommended in the report, is a good thing, but credit transfer is by no means the panacea. We have to recognise that there are differences in the quality of universities that make straight transfer inappropriate, and that not all subjects are taught in transferable chunks.

One area that is urgent and where all interested parties have called for reform is the restoration of maintenance grants, not loans. Students are apparently more worried about their living costs than about their tuition fees. Social mobility and diversity are not promoted by financial or other necessity, leading to studying at the local university and living at home. How easy it must be, yet disadvantageous, to live in one town, study there, marry there, work there and never get to meet youngsters from the rest of the country at the university of your choice. Upward social mobility is associated with moving to a large city and leaving one's region of birth. In Wales, there is now a £1,000 per annum maintenance grant for all students and means-tested grants for living costs. If Wales can do it, will the Government consider doing the same for England?

I also put in a plea for special treatment for nursing and medical students, of whom we have too few. Given the shortage, I ask for their fees to be written off after a time in the profession and/or for them to receive a full maintenance grant. Will the Government take that step?

Recent reviewers have seen higher education merely in terms of economic or private benefit, and it is time we stopped doing that. The evidence shows that higher levels of education are linked to a range of positive social, well-being and cultural benefits for the individual, their families and society. The 2013 study by the Department for Business, Innovation and Skills waxed lyrical on this. I do not have time to quote it but it is worth a read.

Recognition of the wider benefits of higher education will place the debate about fees in a proper framework. This report achieves just that and I congratulate the committee.

5.31 pm

Lord Tugendhat (Con): My Lords, not only was my noble friend Lord Forsyth an admirable chairman of our committee but he also introduced the report in his opening speech in such a way as to cover all the salient points. Since then, other members of the committee have emphasised different points, with the result that if I gave the speech I had prepared, I would simply repeat what other people have said. Therefore, rather than do that, I will just pick out a couple of nuggets that I think have not received as much attention as some of the other points in the report.

Before doing so, however, I pay tribute to the contributions of those who were not members of the committee and who have greatly enriched the debate. Nearly all of them have spoken on the basis of considerable practical experience. In particular, I pay tribute to my noble friend Lord Baker. Whereas we have been reporting on problems, he spends much of his life seeking to resolve them. It is very fortunate that in this House we have people who are still engaged in practical work of that kind.

I should also like to take up the point raised by my noble friend Lord Willetts when he talked about the diverse missions of different universities. Certainly, I agree with what he said about that and I suspect that all the members of the committee agree with him as well. I do not see a disconnect between what we have written in the report and what he said.

I also agree very much with the noble Lord, Lord Burns, about the success of the university sector. I have had some personal experience of it. At different times, I have been chairman of the development committee of my Cambridge college; I have been on the council of Imperial College with the noble Lord, Lord Kerr; and, for many years, I was chancellor of the University of Bath. So I know very well how successful British universities have been and I pay tribute to that. None the less, looking at the university sector at the moment, it is difficult to escape comparisons with the financial sector in the run-up to 2008; there is the same feeling of a runaway train. The evidence is clear; there is the high proportion of graduates leaving university who are unable to get graduate-level jobs and the extraordinary grade inflation to which attention has been drawn. I was at university a very long time ago but, in those days, first-class degrees were in low single figures. I remember when my noble friend Lord Howell got a first in economics in a department headed by Professor Kaldor; it was something that everybody commented on and has led me to admire him ever since.

Then of course we have universities offering places to those with quite inadequate qualifications, a point on which the universities' union recently commented. In addition there is, on the one hand, a mad scramble for income, reflected in what I have just said, and, on the other, the phenomenon of universities getting ever deeper into debt. There was an estimate in the *Times* recently that the total debt of the sector is over £10 billion. One small, unnamed institution has already had to be bailed out; I hope it will not turn out to be the Northern Rock of universities. These are worrying aspects, which perhaps did not attract as much attention in the debate as other points.

The shortage of people with sub-degree craft and technical qualifications on the one hand and the superabundance of people with honours degrees on the other, while a matter of economic consequence, is not only that. It leads to disappointed expectations, frustrations and unemployment among young people. This in turn gives rise to a variety of social problems; we should see the mismatch in that context, as well as in respect of the economic waste.

Finally—this also bears on the point I have just made—I should like to emphasise the need, to which we drew attention in the report, for young people to receive good advice on whether they go into one form of higher education or another, which courses they should follow and which institutions they should try to get into. This is a terribly difficult problem, for which schools do not adequately provide at the moment and where there is, perhaps, an opportunity for outside help. I hope our report will have drawn attention to some of the issues that schools need to take into account in advising those going on to the next stage of their lives.

5.38 pm

Baroness Garden of Frognal (LD): My Lords, as those winding up, the noble Lord, Lord Watson, and I may be entitled to speak for up to 10 minutes but I shall attempt not to trespass for too long on your Lordships' time. I add my thanks to the noble Lord, Lord Forsyth, and his committee for producing such a thought-provoking and authoritative report. Reading it, I felt nostalgic for the ill-fated Liberal Democrat policy of no fees in the 2010 election—perhaps I should not remind noble Lords—which we had fully costed. I mused on how this report would have read if we had followed that policy. I cannot help feeling that it would not have been any more depressing than the picture before us here. We would have saved a deal of money on the Student Loans Company, administration and tracking down non-payers, and of course we would have avoided the £1.2 trillion of debt that will face Governments in years to come. I am glad that my noble friends Lord Sharkey and Lady Bowles talked about fees and funding, so I will not go further on that. And we are where we are; it is no use hankering for what might have been.

The timing of the Government's response has meant that it has kicked into touch many of the questions pending on the Augar review. I am sure we will all be watching with even more interest the findings of that review, which is due to report in early 2019. Perhaps the Minister can give us a timescale for the report. Universities UK considers the review to be an important opportunity to ensure that all post-18 routes are properly supported and accessible, particularly to those from disadvantaged backgrounds, and that our post-18 system is effective at meeting current and future skills needs.

We see from the report that skill shortages, as the noble Lord, Lord Baker, has set out, are particularly acute in the gas, electricity and water industries, construction and manufacturing. To that I think we could add hospitality, agriculture and indeed STEM teaching posts; we are woefully short of STEM teachers. Access to any higher or further education should

[BARONESS GARDEN OF FROGNAL]

be fair, accessible and progressive, should support national and local productivity and economic growth by providing a sufficient supply of higher-level skills, should be stable and sustainable, with the cost shared between taxpayers and graduates—I will come back to that later—should be funded to cover both living and tuition costs, and should be easy to understand and transparent. Those are all eminently sensible conditions.

The noble Lord, Lord Bilimoria, spoke about funding inconsistencies. We also heard about funding from the noble Baronesses, Lady Deech and Lady Harding. Like my noble friend Lady Smith, I paid no fees for my Oxford degree, although curiously we did have to pay if we wanted a certificate so I still do not have one of those.

Lord Forsyth of Drumlean: Very Scottish.

Baroness Garden of Frognal: The noble Lord can say that; obviously I could not possibly comment, not being Scottish.

There is so much in this report to applaud and support. The noble Lord, Lord Tugendhat, referred to the runaway train of universities. I shall turn to further education, of which we have already heard much. I note that the National Union of Students has declared that the FE sector has become starved of requisite funding, and it strongly supports the recommendation that the Government explore restoring teaching funding for further education colleges so that they can cover costs and stimulate demand for courses at Levels 4 and 5. I agree with the noble Lord, Lord Layard, in his remarks on FE. I was hosting an FE event at lunchtime with scores of staff and learners, including those from specialist colleges. It was a stark reminder of the breadth of provision that colleges serve and the dedication of the staff.

What about vocational skills—which we now have to call “technical”, although craft skills are vitally important too? They have nothing like the support and status that they deserve. I was taken with the quotation:

“There’s an oversupply of history graduates and an undersupply of geeks”.

Let’s hear it for the geeks of this world. I was also glad that the noble Baroness, Lady Jenkin, brought up social skills and volunteering and organisations such as City Year, which are such an important part of education.

We certainly share the concerns over part-time and adult education, which have been raised all around the House and which, as the report highlights, have seen a drastic and enormously damaging decline. I should declare an interest as having worked for City & Guilds for 20 years, and I am a vice-president of the institute. I have also recently had the honour of being awarded a fellowship by Birkbeck. Birkbeck is one of the great pioneers of part-time, adult degree-level education. Like the Open University, it has been transformative for so many people who may have missed going to university from school or who simply wished to continue learning.

Surely continuing to learn after school should be something that any Government should support and encourage, yet we have seen drastic reductions;

the noble Baroness, Lady Harding, quoted a figure of 200,000 fewer part-time students in higher education in 2016 than in 2010. Both Birkbeck and the OU are facing difficulties and adult learners are facing a loss of opportunity. We have heard from my noble friend Lord Sharkey about the loss of continuing education departments in universities, and the noble Lord, Lord Burns, talked about the decline in part-time education. This surely has to be a bad thing for our country.

The noble Lord, Lord Willetts, who has been so influential in this area, spoke about all the areas that he knows well. My noble friend Lord Sharkey quoted his evidence, and I shall quote from it further. He said:

“The evidence is that the loans for part-time students have not worked. There has been low take-up and people have been put off. We need new mechanisms for helping adults to study part-time”.

We do indeed. There is plenty of evidence that adults are going to be risk-averse when taking out loans.

Part-time distance learning has flexibility at its core. It supports those in work to earn and learn, gives life-changing study choices to people of all ages and backgrounds and is a key driver of social mobility. The Government must recognise that part-time study in higher education is an essential part of the educational landscape and critical to adult reskilling. We know that there are not enough young people coming into the workforce to fill the alarming skills gap and as we lose EU workers, who feel increasingly unwelcome in the current climate, the shortages will become more acute and reskilling adults will become ever more essential. Yet what are the Government doing to encourage this? Precious little.

Fee loans should be made available to enable adults to achieve a second level 4, 5 or 6 when that second qualification is part of a career plan. There should be greater availability of fee and maintenance grants, as we heard from various sides, to ensure that those who have less resource are not prevented from accessing education. We cannot afford to exclude those who may have the skills and aptitude to learn, but not the funds. The noble Baroness, Lady Finlay, spoke vividly about the difficulties of those with few means, as did the noble Lord, Lord Kerslake, who spoke of the unfairness of the system.

We welcome the widening maintenance provision for 16 to 18 year-old learners, especially where their preferred provision does not exist in their locality. If T-levels are to be made available to adult learners, which was the original policy intention, then appropriate maintenance provision should be available to support them on the programme. I have to say we have some real concerns about T-levels, particularly in rural areas where access to the compulsory work experience may not be available.

We have long advocated a return to the individual learning account, which would create a learner-led, post-18 funding system. Both these and the subsequent individual training accounts have been withdrawn, yet there is great merit in a system which incorporates commitment from learner, government and employer to ensure that people can progress. Maladministration meant that ILAs went wrong when introduced, but the system is sound and should be further explored. Do the Government have any intention of looking again

at ILAs? They should create a learner-led, post-18 funding system that invests in all adults equally and puts learners and future learners in the driving seat through an equal lifetime entitlement.

The noble Lords, Lord Kerr and Lord Forsyth, and the noble Earl, Lord Dundee, all talked about apprenticeships. These should be viewed by young people as just as valid an option as the academic route of sixth form and university. For this to happen, we need a change to school ratings, where the pressure on GCSEs and A-levels is intense. As long as schools are measured—and, indeed, funded—on academic criteria alone, they will inevitably strive to achieve in those areas, to the detriment of work-based achievement. A recent IPPR report shows evidence that the amendment introduced by the noble Lord, Lord Baker, to the Technical and Further Education Act 2017 is not being respected by schools; fewer than two-fifths find time to allow colleges, UTCs or alternative providers to explain to teenagers the varied options which might suit their skills and interests better than university.

Schools Ministers must take long, hard looks at the incentives which encourage schools to meet not the needs of students but the needs of largely university-educated Ministers and officials, who have little understanding or respect for academic alternatives. I urged those with FE backgrounds to go into politics and the Civil Service so that we can attempt to redress that balance. In coalition Government, I tried to persuade Michael Gove that schools should be encouraged to celebrate their apprenticeship leavers as much as their university entrants, but he could not be persuaded. In his ministerial team, I was also struck that I was the only person around the table who had ever been a teacher and who had any first-hand experience of vocational and further educational colleges. We need a change in government and we need the Government to end the anomalies in funding between FE and HE.

If this report can address the generations-old inequality of standing between academic and vocational education, it would be of immense advantage to individuals, the workforce and the country. In these uncertain Brexit days, we cannot afford to ignore measures to generate skills and knowledge that are vital for the UK.

I once again thank the noble Lord, Lord Forsyth, and the committee for such a valuable report and I look forward to the Minister's reply, although I am sadly conscious that his remarks are likely to refer us to the review.

5.49 pm

Lord Watson of Invergowrie (Lab): My Lords, this debate has done justice to the quality of the Economic Affairs Committee and its many recommendations. I commend it and the chairmanship of the noble Lord, Lord Forsyth, as well as his introduction to the debate.

The committee identified the nub of the issue: growth in higher education over the past two decades has been in stark contrast to the number of students graduating with qualifications at levels 4 and 5. Rates of teenage literacy in England are lower than those of other OECD nations. Indeed, it is the only nation in the OECD in which rates of literacy for 16 to 24 year-olds are lower than those of people aged 55 and over.

We know of the need for an advanced skills economy. If people lack basic reading skills, they will have great difficulty gaining the work skills that the economy so badly needs. The National Audit Office has highlighted a lack of STEM skills as a particular issue. The OECD characterises this as a cultural problem in the UK, with little having changed over the past four decades.

The Government make much of their investment in people's skills, yet public spending on education as a share of GDP has fallen and is projected to continue falling to below 4% in 2020. Government spending on education is heavily front-loaded. Education spending per student reaches a peak at the age of 15 and falls until a young person reaches 18, at which point it increases again for those who take a full-time university course. Today's young people will work until well after the age of 65, but they will generally complete their education by their early 20s and rarely return. That is why lifelong learning will be at the heart of the national education service that Labour will deliver in government: young people have rising aspirations, but the education system seems to judge large numbers of them to have failed at the ages of 16 and 18. Forty per cent of young people do not reach level 3 by the age of 19, and 15% have not even achieved level 2.

Part-time higher education will, as many noble Lords said, be a determining factor in confronting those issues, as well as the other major economic challenge that the UK faces of low productivity. Yet, as the committee's report stresses, part-time higher education is in crisis, with a continuing fall in part-time and mature students largely the result of the huge increase in tuition fees since 2012, as highlighted by the committee. With Labour's pledge to end tuition fees, that barrier will no longer face those who want to combine work with adding to their skills. I am afraid I must disagree with the noble Baroness, Lady Deech, on that point, but I welcome her support for another of our policies: the restoration of maintenance grants.

It is important that the committee's recommendations, and any government decisions in response, avoid unintended consequences on the provision and uptake of part-time study in England, and the support that it gives to students at any age and from any background. For instance, if Philip Augar and his panel really are assessing a minimum grade required to access loans, as reported recently in the *Sunday Times*, it would have potentially severe implications for the Open University, which has no minimum entry requirements.

Flexible and affordable lifelong learning, such as part-time distance learning, is essential for those whose skills development needs to fit around a busy working and family life. Part-time distance learning also tackles directly one of the biggest problems facing regional economies: the skills drainage of those who must leave their communities to study. As the Open University says in its briefing to noble Lords for the debate, there are no geographical higher education "cold spots" for part-time distance learning.

To tackle one of the barriers to study—halting the decline of part-time and flexible learning—the committee recommends the establishment of a credit-based system, whereby people can learn in a more modular way and at their own pace, which I think was just advocated by

[LORD WATSON OF INVERGOWRIE]

the noble Baroness, Lady Garden. We support that and want to see such a system, which would provide support for study costs to those who may be unable initially to commit to studying towards a full qualification.

The committee was scathing in its assessment of the current delivery and quality of apprenticeships. That is a concern that we certainly share, although we believe that calling for the abolition of the Institute for Apprenticeships is somewhat premature. There have been long-standing concerns that vocational and technical routes are seen as somehow second-rate. Taking an apprenticeship should be a choice valued as highly as any other pathway. The Government say in their response to the committee's report that they agree with that. Yet, as the noble Lord, Lord Forsyth, said, they continue to incentivise head teachers to retain as many of their pupils post-16 for reasons of funding, rather than ensure that young people are guided towards the route most suited to them—and, crucially, most suited to the future needs of the economy. The Government's careers strategy should be working towards that, but it has been frustrated by some head teachers who continue to make it difficult for employers and further education colleges to gain meaningful access to their pupils. The noble Viscount might like to say how the Government will ensure that problem is dealt with.

We also agree with the committee that the Government should abandon their target of 3 million apprenticeship starts by 2020. Even the Institute for Apprenticeships now admits the target will not be hit and the focus surely has to shift from quantity to quality. We should better align apprenticeships with the needs of employers and the labour market, not just as it is today, but as it is projected to develop. The latest CBI education and skills survey stated that 73% of employers anticipate needing more employees with management and leadership skills in the next three to five years. Degree apprenticeships, which the noble Lord, Lord Baker, welcomed, have a role here. Applied learning is an increasing trend and a recent Chartered Management Institute survey shows that increasing numbers of parents—who, of course, are the key influencer in young people's education choices—now favour a degree apprenticeship with a major employer over a traditional university degree.

I acknowledge the concerns of the noble Baroness, Lady Harding, on management apprenticeships. I have my own doubts, but yesterday I attended an event in Parliament on chartered management degree apprenticeships. The committee states in its report that some employers are “gaming” the system by investing in management apprenticeships, or that management apprenticeships are just rebadged MBAs. I am sure that will be true in some instances, but it would be unwise to generalise. Most management apprenticeships are learned at level 3, and the latest statistics show that level 6 apprenticeships—the chartered manager degree apprenticeship—are providing a route into management and leadership positions for people who might otherwise be excluded. Of those who started apprenticeships in 2017, over half are women, over a third were under 25 and two in five came from more disadvantaged areas. I simply say that there is more to that story than has hitherto been given attention.

The contrast was highlighted yesterday between a 21 year-old who completes a degree at university but has little or no work experience, has up to £50,000 in debt and can only rent their home, and a 23-year-old degree apprentice who finishes with an equivalent degree, but with five years' work experience, no debt and savings towards a deposit on a first home of their own. Degree apprenticeships make learners think more like employees and employees more like learners. It is a system of earning and learning that could be expanded to the advantage of thousands of school-leavers.

Two months ago, the Government announced an expansion of accelerated degrees—a welcome step towards creating more choice and flexibility in higher education—but will it be matched with the funding to make it attractive enough to young people, as well as those with families and regular jobs? In their response to the committee's report, the Government say that the Office for Students will provide £2 million to support development of accelerated degrees in the current academic year, but they say nothing about thereafter. There will need to be that amount and more on a continuing basis to ensure that these types of degree become more widely known and accepted; otherwise there is a danger that we could see the main beneficiaries being youngish people already in secure jobs and possibly even with a first degree, which surely cannot be what the Government intend. I hope that the noble Viscount will set out their position on this point.

The Government also say in their response, in this case on flexible learning:

“FE colleges can play a vital role for their ... communities”.

That must have caused head-shaking by many in the sector, because further education colleges already do that to good effect, although it is despite rather than because of government policy. As acknowledged by the noble Lord, Lord Willetts, further education is the only part of the education budget to have had continued cuts since 2010. Over that period, funding for students aged 16 to 18 has been cut by 8% in real terms and over the last 10 years colleges have had to deal with average funding cuts of around 30%, so it should not come as a surprise to learn that the numbers of part-time higher education students at colleges, who are typically over 25, have declined by more than 10,000 over the last four years.

The committee rather timidly suggests that the Government should merely,

“explore restoring some teaching funding”,

for FE colleges to,

“stimulate demand for courses at Levels 4 and 5”.

The Government surely need to go much further than that if the imbalance in higher education is to be meaningfully addressed, yet even that modest recommendation is dodged by the Government in their response to the committee, with the suggestion that it will be considered as part of the review of post-18 education and funding. That has been a convenient bolthole in the Government's responses. By my calculation, that was one of 14 such deflections to the review panel in the Government's 14-page response.

Much is resting on the shoulders of the Augar review panel when it reports next month. We can only hope that it will largely reflect the committee's recommendations in its own. The noble Viscount might prove me wrong, but I suspect that is not a hope that the Government will share.

5.59 pm

Viscount Younger of Leckie (Con): My Lords, I am pleased to respond to this debate on Treating Students Fairly, the second report from the Economic Affairs Committee chaired by my noble friend Lord Forsyth of Drumlean. I echo the appreciation expressed by this House for the work of the members of the committee in producing the report. The breadth of its scope is impressive and the process for collecting evidence was a substantial undertaking. I thought that this would be an excellent debate and I have not been disappointed, with some constructive and thoughtful speeches, not least from my noble friend Lady Jenkin on FTSA and the importance of social action.

The Government welcome the report and agree that for too long young people have not had a genuine choice in what and where they wish to study. I am sure that your Lordships will agree that we want a country where everyone, no matter where they are born or grow up, has the opportunity to fulfil their potential. It is essential for there to be clear pathways for young people into and through both further and higher education, and then on into employment—different but equal routes to rewarding careers.

Parity of esteem has been mentioned by many noble Lords in this debate, including the noble Lord, Lord Kerr, and the noble Baronesses, Lady Smith and Lady Finlay. Let me say at the outset that it is what the Government are saying, too, and what we are working on. To achieve this, all school leavers need access to high-quality careers advice if they are to make the most of their skills and know about the full range of opportunities available. My noble friend Lady Harding is right about the need to champion this and bring parents on board. The committee is right that for too long there has been too much focus on the traditional university route. That is now changing—I make the point again.

Let me start with the basics. Our *Careers Strategy*, published in 2017, sets out a long-term plan to build a world-class careers system. This emphasises the responsibility of schools and colleges to provide their students with a full picture of their options. Under a law introduced by this Government last year, known as the Baker clause, head teachers must allow technical education and apprenticeship providers—that is, employers—into their schools to talk to pupils about their offer. I am concerned by the remarks made by the noble Baroness, Lady Garden; I will follow up on what she has said, check on the figures she has produced, write to her and place a letter in the Library.

Like many in the Chamber, I echo the remarks made by my noble friend Lord Baker about the idea, the development and the progress of UTCs. He has been resolving problems in education, as my noble friend Lord Tugendhat said.

To improve high-quality technical options that offer credible alternatives to traditional academic qualifications, this Government are introducing T-levels. Their creation represents the biggest reform of post-16 education since A-levels were introduced 70 years ago. In addition, we have maintained our commitment to delivering high-quality apprenticeships. Apprenticeships provide a work-based alternative to academic study, ensuring that people have the skills and training needed to enter the job market and progress in their careers. I will say more on this subject later.

Compared to other countries, there is also a large gap in the number of people who study higher-level technical skills—the area of study between A-levels or T-levels and a degree. Only 7% of learners aged 18 to 65 are studying for these higher technical qualifications. This compares with 20% in France and Germany, and 35% in Canada. That is why the Secretary of State announced last month that we will establish a system of employer-led national standards for higher technical education. These will be based on existing apprenticeship standards, and will be available from 2022.

Eloquent speeches were made by my noble friend Lady Harding and the noble Lord, Lord Bilimoria, on the question of the digital revolution, based—I imagine—on their long experience of business, which I appreciate. A few speeches touched on the importance of lifelong learning, and we have had two recent valuable debates on this subject. The noble Baroness, Lady Garden, touched on this as well. We recognise that the labour market is continually changing, with the demand for skills. Technological progress and automation will help drive that change.

The National Retraining Scheme will aim to drive adult learning and retraining, and will be a big part of the department's response to technological progress; £100 million has been committed to start the rollout of this particular scheme.

In the area of higher education, the Government are committed to developing and delivering policies to ensure that all students, regardless of their background, can make more informed choices about their higher education. Informed choice is a fundamental part of the new regulatory landscape and is crucial for ensuring that prospective students make decisions that are right for them. We are working to improve the information that is available and to ensure that students have better access to it. Before Christmas, the Government awarded contracts to two tech companies as part of the higher education open data competition, to develop digital tools that present graduate outcomes data in an accessible and engaging way.

The Office for Students will play a key role in improving and supporting informed choice, through a student information strategy and through a new online student information resource tool that will replace Unistats by September 2019.

Let me now give an update on our major review of post-18 education and funding, which relates directly to the committee's recommendations on student finance. A number of noble Lords, including the noble Lords, Lord Bilimoria and Lord Kerslake, asked questions in this critical area. Partly as a reminder, the review is considering a number of important questions, specifically,

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“how we ensure that tertiary education is accessible to everyone, from every background; how our funding system provides value for money, for both students and taxpayers; how we incentivise choice and competition right across the post-18 sector and how we deliver the skills that we need as a country”.

The independent panel of experts supporting the review has undertaken an extensive programme of stakeholder engagement and evidence gathering, to which the Economic Affairs Committee’s report is a valuable contribution. We remain open-minded in our approach and do not want to pre-empt the outcome of the panel’s work at this stage. The noble Baroness, Lady Garden, may have guessed that I would come to that particular conclusion.

However, I do have more to say, and I now turn to the comments made by the noble Lord, Lord Sharkey, on maintenance loans. We increased support for full-time students’ living costs by 3.2% in 2018-19, with a further 2.8% in 2019-20 for students living away from home and studying outside London. This is the highest on record.

While some of the report’s specific recommendations on issues such as maintenance support will be subject to the outcome of this review, this should not detract from the progress made in other areas, including higher technical education and apprenticeships. As set out in their terms of reference, the independent panel will report in early 2019, before the Government conclude the overall review. The Government intend to move swiftly to improve the post-18 system once the review has concluded. Implementation timetables will depend on the review’s recommendations and any legislative and operational requirements. The Secretary of State has given his commitment to write to the committee once the review has been completed.

Turning to a point raised by my noble friend Lord Baker, who stated that further education for college funding had been cut far too much since 2010, and also in response to issues raised by the noble Lord, Lord Layard, we have protected the base rate of funding for 16 to 19 year-olds until 2020, to make sure that every young person has access to the education they deserve. T-levels will attract an additional £500 million of funding per annum when they are fully rolled out.

The noble Lord, Lord Layard, raised a few other issues on apprenticeships. We have increased opportunities in technical and professional education by doubling—in cash terms—the funding available for apprenticeships in 2019-20, when compared with actual levels of spend in 2010-11. Apprenticeships are supported by the Institute for Apprenticeships, which I will talk more about later. Employers are developing new, industry-recognised standards at levels 2 to 7. Traineeships provide work experience, work preparation training and English and maths for those who are not ready for work or who are on an apprenticeship; 62% progress to apprenticeships, employment or further training.

I will conclude in this area by making some rounded comments in response to the noble Lords, Lord Sharkey and Lord Kerr, and my noble friends Lord Willetts and Lady Harding, who all commented on student finance, maintenance loans and interest rates. We have had a great number of valuable and insightful comments on student finance, for which I am grateful; they were

timely and welcome. As I have outlined, the review of post-18 education is carefully considering these issues. It is essential we get this right for future generations. And I will ensure that today’s feedback is passed on to the independent panel. The Secretary of State has already agreed to write to the Economic Affairs Committee once the review concludes.

I want to move on to higher education and touch on the market. I was pleased that the noble Lord, Lord Burns, pointed out some favourable trends in higher education, in addition to his constructive points this afternoon, because higher education has undergone a period of sustained expansion. Nearly one in two of 18 to 30 year-olds in this country will now go to university. As he said, the system of fees and loans has allowed us to remove number controls and open up opportunities for students. Eighteen year-olds from disadvantaged backgrounds are 52% more likely to enter full-time higher education now than in 2009.

My noble friend Lord Willetts is absolutely right to say that universities offer a range of distinct missions. The diversity of our higher education sector is one of its biggest assets—from the small and specialist to the research-intensive and degrees taught in further education colleges. I noted the point made by the noble Baroness, Lady Finlay, who gave her own example. This diversity is essential to social mobility and our world-leading reputation, and one key thing is essential to it: assuring a high-quality offer and experience for students. That is exactly why we created the Office for Students, which has an explicit role to uphold quality and the value of degrees over time. I am sure that my noble friend Lord Willetts had this in mind when he did so much to pave the way for greater diversity in universities, with greater choice on offer.

In this context, the Higher Education and Research Act 2017 introduced reforms to increase competition between providers and promote greater choice for students. The Act laid the foundations for a new regulator for the higher education sector: the Office for Students. The OfS is focused on ensuring that any student with the ability to benefit from higher education is supported in doing so, that they have a positive experience and that they receive worthwhile outcomes. Value for money is of particular importance to the OfS. One of its duties under the Act is to have regard to the need to promote value for money in the provision of higher education by English providers.

My noble friend Lord Forsyth and the noble Lord, Lord Burns, raised an important issue: what the Government are doing about grade inflation. I know that I handled an Oral Question on that not so long ago. Our reforms must make sure that students’ hard-won qualifications continue to hold their value. The OfS has been asked to deal firmly with any institution found to be inflating grades unreasonably.

My noble friend Lord Willetts asked about having a pupil premium at universities. I agree that the idea of a pupil premium is interesting but we are already making great headway with social mobility. In 2018-19, universities and colleges plan to spend more than £860 million on measures to improve access and success for students from disadvantaged backgrounds. This is up significantly from £404 million in 2009. As he knows, the OfS also

has a statutory duty to promote equality of opportunity for disadvantaged and underrepresented groups. I will certainly take this idea back to the department.

I thank the committee for bringing to the attention of the ONS, and the Treasury Select Committee, the need to re-examine the treatment of student loans in the public finances. The noble Lord, Lord Kerr of Kinlochard, my noble friend Lord Forsyth and the noble Baroness, Lady Bowles of Berkhamsted—who, by the way, is clearly something of an expert in this area—spoke on this point. In response to the recommendation, the ONS has decided that, due to the income-contingent nature of student loan repayments, the current treatment does not reflect the economic substance of the assets. My noble friend Lord Forsyth and the noble Baroness, Lady Bowles, eloquently spelt out the details of this. As she said, it has therefore been decided to split the loans into a genuine lending portion—the loan asset—and a spending portion, which is the amount we expect not to recover. If you like, it is lend versus spend.

The ONS has decided that the best way to reflect student loans within the national accounts and public sector finances is to treat part of these loans as financial assets and part as government expenditure. The ONS cited the committee's report as one of the reasons for carrying out its own review. The Government will consider the ONS report and work with it to establish a methodology for implementing any necessary changes to be included in the new guidance. I thank the committee again for its contribution in this area.

The committee also emphasised the importance of flexible learning as a means by which people access and achieve higher education qualifications. We recognise that a diverse offer improves the choices available to potential students. My noble friends Lady Harding and Lord Dundee made points about the credit system, which has been designed to boost flexibility, particularly in adult part-time study. She also made insightful comments on flexible learning, in particular the importance of credit transfer and the role of the Open University. We have already given the Office for Students the power to promote student transfer and in 2017-18 and 2018-19, the Government have provided £29.5 million each year to support part-time study at the Open University.

My noble friend Lord Willetts and the noble Lord, Lord Sharkey, spoke about part-time students. The Government recognise the importance of studying part-time and the benefits that can bring to individuals, employers and the wider economy. We have already made a number of changes to support part-time and mature learners. This academic year, for the first time ever, part-time students can access full-time equivalent maintenance loans. This issue crops up in the Lords on many occasions and we firmly take note of its importance; this is very much a work in progress.

Let us return to apprenticeships, as I promised. In 2015, the Government set an ambitious goal of achieving 3 million apprenticeship starts by 2020. This is still our ambition but we remain steadfast in our view that we will not sacrifice quality for quantity. We want to see 3 million quality apprenticeships; we have already seen

1.5 million starts to date, providing more opportunities for people of all ages and backgrounds. The committee pointed to Ofsted's findings on insufficient off-the-job training and apprentices not being able to apply their learning at work. In the previous academic year, there was a nine percentage-point increase in the providers that Ofsted found to be good or outstanding for apprenticeships. We agree with the committee that apprenticeships should have parity of esteem with other routes, as I touched on earlier. To ensure this, we have introduced 390 new industry-designed apprenticeship standards to replace the old frameworks that employers told us were not equipping apprentices to do the job. By August 2020, all new starts will be on these new standards, meaning that employers and apprentices can be assured about the quality of training they are getting.

My noble friend Lord Baker spoke about degree apprenticeships and having more degree apprentices because that is where the jobs are. There were 10,880 starts at levels 6 and 7 in 2017-18, over six times as many as in 2016-17. In addition, over 70 new high-quality apprenticeship standards are now available at level 6+. UCAS and the National Apprenticeship Service have developed a higher and degree apprenticeship vacancy finder to consolidate many of these opportunities in one place. In November, we published thousands of vacancies from various employers starting in 2019.

We established the Institute for Apprenticeships to ensure quality throughout the apprenticeship system. Given some of the comments made, I felt it would be wise to spend some time on this. Its responsibilities include: developing and maintaining quality criteria for the approval of apprenticeship standards and assessment plans; and supporting the development of standards and assessment plans by employer groups, and reviewing and approving them. The institute has supported the delivery of new standards. We have seen strong uptake by employers, with 44% of all starts on standards in 2017-18. It has established route panels of industry leaders to ensure that each apprenticeship it approves meets industry requirements and provides apprentices with full occupational competence on completion. It has also started to build its capacity in readiness to expand its remit to T-levels in 2019.

The IfA is supporting the construction sector to develop apprenticeship standards at all levels, from bricklayer at level 2 to architect at level 7. Contrary to comments made by some, including my noble friend Lord Dundee, the institute is a new and developing organisation that plays a vital role in creating quality apprenticeships that meet industry needs. We do not agree that it should be abolished. It should be given time to continue its focus on improving the quality of our apprenticeship and technical education offer to young people. I was glad that there was some support for this from the noble Lord, Lord Watson. Employers have been positive about the institute. For example, GlaxoSmithKline has commented that working with the institute has been very positive and that relationship managers have given excellent support along the way.

The noble Lord, Lord Kerr of Kinlochard, spoke about the slow speed of progressing standards. I accept that some while ago there were some problems in

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that area, but the institute's Faster and Better programme has already resulted in a significant improvement in the time taken to approve standards.

The noble Baroness, Lady Smith of Newnham, spoke about EU migrants in the UK filling the UK skills gap. While I am aware of the need to continue welcoming EU and non-EU migrants to the UK to fill the skills gap, this is why there needs to be no limit on the number of international students who can come to the UK to study. This is a matter of long-standing government policy, as she will have heard me say previously in this Chamber.

The noble Lord, Lord Bilimoria, asked about the financial sustainability of higher education providers in the context of Brexit, and the possibility of providers needing to accept more international students. We are working closely with the Office for Students, which monitors and assesses the financial sustainability of English higher education providers, and will monitor the impact of Brexit-related changes on providers and the sector. The Government recognise the important contribution of international students, both financially and culturally, which is why there is no limit on the number who can come to the UK to study. I sound like a long-playing record, but I wish to say that again.

The noble Baroness, Lady Deech, asked whether the Government will provide relief on tuition fees for medical and nursing students, which is a fair point. The number of medical places in England is increasing by 1,500 from 2018 to 2019. This represents the largest ever expansion of medical training in one year. The Government provide significant investment in the education of medical students, because we recognise the importance of this workforce in the NHS. The post-18 review will consider how students and graduates contribute to the costs of their studies—including the level, terms and duration of their contributions—while maintaining the link that those who benefit from post-18 education contribute to its costs.

I am aware that time is running on and certainly wish to write to my noble friend Lady Jenkin on FTSA. Having mentioned it earlier, I owe her a proper reply to her point. My noble friends Lord Baker and Lord Forsyth raised a question about the recommendation to restore funding to further education colleges for levels 4 and 5. Last year we launched a review of classroom-based technical education at levels 4 and 5, which aims to address the intermediate and higher skills needs of the economy by ensuring that learners have high-quality, accessible and attractive study choices at levels 4 and 5.

To conclude, when future generations and historians look back, it is my sincere hope that they will recognise that this as a pivotal moment when our country took bold steps to provide credible routes for technical education, while maintaining our place as home to some of the world's finest universities. This is an endeavour at the heart of our nation's future prosperity and success. Once again, I offer my deep gratitude to my noble friend Lord Forsyth and the committee for bringing their wealth of experience to this area.

6.23 pm

Lord Forsyth of Drumlean: My Lords, shortly after the committee had concluded its report, the Prime Minister asked me to go to No. 10 to discuss it. In the waiting room the words that she spoke on the steps of No. 10 after she was elected, about a country that works for everyone, are framed on the wall. I said to her that this report goes absolutely with what she wanted to achieve, and she said that that was indeed the case. What an opportunity for any Secretary of State for Education who takes the trouble to read this debate: there is all this unanimity across the Chamber on what needs to be done, and the report sets it out. I am most grateful to my noble friend Lord Younger for his very courteous and constructive response.

I understand about the Augar review and the inability to respond, but Members will be aware that the Augar review is simply advisory. The decisions will be taken by the Department for Education, and any Secretary of State for Education has a huge opportunity—I very much look forward to seeing the response to the Augar review—in wasting not a minute more in making the changes necessary. For every month and year that goes by, another cohort loses out on opportunities to which we all agree it is entitled.

I thank everyone who has spoken in the debate—time has gone on so I shall not refer to anyone—and made a contribution. I thank my committee, and my noble friend Lady Harding for pointing out that I do not tell the committee what to do. It is a joy to chair this committee; it is always a joy to be surrounded by people who are better informed and brighter than you. This report was unanimous on a controversial area. The way forward is clear: I hope the Government will see the signposts and take that way.

Motion agreed.

Brexit: Proposed UK–EU Security Treaty (European Union Committee Report)

Motion to Take Note

6.25 pm

Moved by Lord Jay of Ewelme

To move that this House takes note of the Report from the European Union Committee *Brexit: the proposed UK–EU security treaty (18th Report, HL Paper 164)*.

Lord Jay of Ewelme (CB): My Lords, it is a pleasure to be speaking in the calm and thoughtful end of the Palace of Westminster. As chair of the EU Home Affairs Sub-Committee, which prepared this report, I thank the members and staff of the sub-committee, and our specialist adviser, Professor Steve Peers, for their support and advice.

This report was published on 11 July last year, six months ago, and we received the Government's response in September. But much has happened in those six months, and many of the issues we covered in our report, such as the Government's ambition to negotiate an overarching security treaty with the EU, have been

largely overtaken by events. So I will not rehearse those issues at length this evening. Instead, I will focus on the key issue of UK-EU security co-operation, and reflect on one or two more recent events.

Of course, much has happened in the last 24 hours, too. But none of it, alas, makes the future any less opaque; nor, at least at this stage, does it greatly change the options before us. The analysis and recommendations in our report remain valid. In our report, we supported the Government's three principal areas for future UK-EU security co-operation—extradition, partnerships with EU agencies such as Europol, and access to law enforcement databases—and considered how the UK's engagement with the EU in each of these areas may be affected during the transition period and under the future UK-EU security relationship.

We emphasised:

“The UK and the EU share a deep interest in maintaining the closest possible police and security cooperation after Brexit: protecting the safety of millions of UK and EU citizens must be the over-riding objective”.

We further stressed:

“Negotiations on security are not a ‘zero sum game’: we all stand to gain from agreement, and we all stand to lose if negotiations fail”.

The EU Commissioner for Security Union, Sir Julian King, told the committee that,

“security cooperation should be unconditional”,

and I agree with that. I pay tribute to the excellent work carried out by Sir Julian King as our commissioner, and to President Juncker, who does not always get much of a mention, for giving the British commissioner a portfolio of real substance at a time when he could easily have made him a cypher.

As noble Lords will know, the withdrawal agreement and political declaration were agreed by negotiators in the closing weeks of last year. Let us assume that they remain valid, although I suspect the political declaration, at least, may change in the weeks ahead. First, I will say a word about the transition period. Under the terms of the November 2018 withdrawal agreement, the UK would continue to participate in EU agencies, mutual recognition instruments and information-sharing mechanisms until the end of the transition period. The UK would not, however, be able to participate in the management bodies of EU agencies or opt in to new measures in the areas of freedom, security and justice, although the EU may invite the UK to co-operate in such measures under the conditions set out for co-operation with third countries.

Extradition arrangements could also be disrupted. Article 185 of the withdrawal agreement would authorise EU 27 states such as Germany to refuse to extradite their nationals to the UK during the transition period in accordance with their domestic constitutional requirements. Germany apart, we do not know how many will do so. While the practical impact of that change remains unclear, including on cases pending on the date of the UK's withdrawal, the Government must surely publish a contingency plan that addresses any disruption to UK extradition arrangements. We urge them to do so.

As for the future relationship, the political declaration envisages,

“a broad, comprehensive and balanced security partnership”,

for law enforcement and judicial co-operation. However, as the European Union Select Committee's report on the withdrawal agreement and political declaration noted,

“this may fall short of the Government's ambition for a single comprehensive treaty”.

In any case, as our report concluded, it is unlikely that an overarching internal security treaty can be agreed before the end of 2020.

The Select Committee's report also noted that:

“The depth of the future relationship in law enforcement and judicial cooperation ... will depend on ‘an appropriate balance between rights and obligations’ and on the UK's willingness to continue to follow EU rules and to accept that the CJEU, as the sole interpreter of EU law, will have continuing influence over the application of those rules”.

Can the Minister confirm the Government's view of the role of the CJEU after we leave the European Union?

Extradition arrangements after the end of the transition period look increasingly insecure. The Government aim, rightly in our view, to retain all the benefits of the European arrest warrant. The alternative is to fall back on the 1957 Council of Europe Convention on Extradition, which would lead to delay, higher cost and potential political interference. This would be a bad outcome for both the UK and the EU. Perhaps unsurprisingly, as no non-EU member state is currently a participant, the political declaration does not mention the European arrest warrant. The declaration states simply that “effective arrangements” on extradition will be established. We urge the Government to bring forward detailed proposals as soon as possible.

It would be in the interests of both the UK and the EU to secure a future relationship with Europol that as far as possible maintains the operational status quo. We were hugely impressed by the evidence we received on the sheer volume of data exchanged between the UK and Europol on transnational crimes. It makes early agreement necessary.

The committee is concerned by the Government's “transactional approach” to Europol negotiations. Simply because the UK is a major contributor of data to Europol, the Government should not underestimate the impact of Brexit on the UK's role and influence within Europol. The political declaration states that the UK and EU will identify how the UK will co-operate with Europol and Eurojust. That is good as far as it goes, but it does not go very far. Both agencies are essential for UK law enforcement; I hope that the Minister will confirm that.

Future UK-EU security co-operation will be underpinned by an agreement on data. If the UK loses access to EU security databases, information that can be retrieved almost instantaneously may take days or weeks to access, creating a hurdle for policing and a threat to public safety. The political declaration suggests that the UK and EU seek reciprocal arrangements for exchanging passenger name record—PNR—data and DNA, fingerprint and vehicle registration data through the Prüm system. These are extremely valuable to UK law enforcement. We welcome that.

The declaration also contains commitments to consider other arrangements for data exchange that could “approximate” EU mechanisms, but there is no

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mention of either the SIS—Schengen Information System—II or the European Criminal Records Information System, or ECRIS, database, to which no non-EU country currently has access. This is worrying and I would welcome the Minister's comments.

I will say a word about Ireland. Close co-operation between the United Kingdom and Ireland on security matters is fundamental. The appointment last year of the deputy chief constable of the PSNI as Garda Commissioner is welcome and imaginative. I hope that the Minister can assure us that, whatever happens, this essential close co-operation between the United Kingdom and Ireland on security matters will continue.

In their response to the committee's report, the Government agreed with our conclusions about the importance of maintaining UK involvement in JHA measures during the transition period and our assertion that security is not a zero-sum game. The Government also agreed that existing third-country relationships with agencies such as Europol are an inadequate model for the UK's security needs and that falling back on pre-EAW extradition arrangements would not be desirable. The Government disagreed, however, that a comprehensive security treaty would be too difficult to agree before the end of the transition period. In November 2018, we wrote to the Government asking for further clarity on the basis for their assertion that a comprehensive treaty could be negotiated more quickly and provide more flexibility than a series of ad hoc agreements. We also asked what planning the Government had done to avoid an operational cliff edge at the end of the transition period. I much look forward to a reply to that letter.

We cannot, alas, rule out leaving the European Union without a deal, although, as I have said in other debates in your Lordships' House, I believe that that would be a disastrous outcome. As the European Union Select Committee highlighted in its *Brexit: Deal or No Deal* report:

"A complete 'no deal' outcome would be deeply damaging for the UK. It would bring UK-EU cooperation on matters vital to the national interest, such as counter-terrorism, police, justice and security matters, nuclear safeguards, data exchange and aviation, to a sudden halt".

None the less, on all these matters, it is essential that internal security practitioners prepare for an operational cliff edge in the event of no deal or at the end of the transition period. We therefore commend the contingency work undertaken by the Crown Prosecution Service, National Crime Agency, Metropolitan Police and others in planning for these possibilities.

Much of the debate about the implications of Brexit is arcane, but the potential implications of Brexit for security are only too clear. The security of our citizens here, and indeed in the EU, is at stake. Brexit risks dismantling agreements and arrangements that have been built up over a generation, and which work. It is no wonder that so many of those who gave evidence to us—the police, members of the legal profession and the Director of Public Prosecutions—were genuinely and seriously concerned about the possible implications of Brexit not only for their work but for the security of our citizens.

I hope that the Minister can give us a convincing assurance that she and the department recognise the challenges that Brexit poses for the security of our citizens and will do their utmost to meet them, whatever the future holds. I beg to move.

6.39 pm

Lord Kirkhope of Harrogate (Con): My Lords, I am delighted to be able to follow our committee chairman, the noble Lord, Lord Jay, and to support his remarks about the recent report on the prospects, post Brexit, for our continued security co-operation with our EU friends. I do not dispute for a moment that the Government and our many police and intelligence agencies accept and desire the need for an ongoing close relationship, but intentions are not enough: to maintain a seamless and effective co-operation we need to have some basic structures and agreements in place, and that is where I have serious doubts as things stand today.

When I was serving for 17 years as an MEP in Brussels, I was engaged as a spokesman for justice and home affairs issues for a large portion of that time, being responsible, with others, for numerous measures enhancing the pan-European close workings of intelligence and police forces to the detriment of major criminals and would-be terrorists. This included those measures referred to by our chairman: the European Criminal Records Information System, SIS II—the Schengen Information System—the European arrest warrant, the money-laundering directive, the data protection regulation and, just before I came back to the UK, the passenger name record agreement, of which I was in charge in the EU and which, incidentally, took eight years of negotiation to conclude.

These vital tools have the power to protect our safety and have indeed been doing so, but they are totally dependent on common standards, equal redress, agreed levels of openness and transparency and, of course, real-time exchange of information. I am sure that noble Lords are aware that millions of exchanges of vital data take place every day between authorities and agencies, with the protections in place ultimately interpreted by the European Court of Justice. The current government red line that rules out that body as an ultimate arbiter of common standards means inevitably that, if we maintain that position in any future arrangements, we will necessarily lose the benefits, especially of immediacy or that real-time information exchange, as well as the confidence of our neighbours in Europe.

We cannot compartmentalise these issues either. Unless we subscribe to the control mechanisms for data exchange, we lose access to all those areas I have referred to as well as access to the co-operation agreements with Europol and indeed other elements of cross-border structures. Of course we can strive to obtain bilateral agreements, which certainly might be easier than multilateral ones, but the other 27 states are obliged by treaty and law not to treat a third country equally, unless it accepts their controls, and that is not apparently acceptable at the moment to Her Majesty's Government.

There are many issues on which those of us who have great experience of Europe would prefer the status quo to the plans currently pursued by the Government.

Trade, the environment and transport are indeed also very important issues but—for me, and I have reason to say so—the most important by far is our security. I have said before in this House that even one minute of any form of gap or vacuum in our arrangements to exchange data relating to those who could do us harm would be—not could be—completely disastrous. At all costs and in all circumstances this must be avoided.

6.43 pm

Lord West of Spithead (Lab): My Lords, I thank the noble Lord, Lord Jay, for tabling this very timely debate. We are in very confused times, as he mentioned, and we do not have any idea where we stand over Brexit at the moment, so I intend to highlight a few truths about the UK's security and defence capabilities, with some reference to the political declaration.

First, any security union should be unconditional. There is little doubt that security links, particularly over the last 12 years, have improved by leaps and bounds. This is primarily because the UK has had some key governance roles in the EU agencies. Apparently in the future, if Brexit goes wrong, this may not be the case and Europe will be considerably less safe—increasingly so as time passes. Europol, for example, was an absolute mess before we put a Brit in charge in 2008. I was there and involved as a Minister. Since then, it has come on in leaps and bounds, as the noble Lord, Lord Jay, said. The disparate agencies in European countries at that stage did not even talk to each other, let alone with the agencies of other countries.

As for secret intelligence, the UK is in an absolutely different league to our European allies, and we must not forget that. They need our intelligence warnings. We have saved countless European lives ever since we made that final decision in 2007 to pass on all intelligence on these issues immediately: we have done it ever since. There is no doubt that passenger data is crucial, as was mentioned by the noble Lord, Lord Jay, and I hope that, whatever the outcome of what is going on, the EU does not try to cut us out from this information: that would be in no one's interests. Similarly, the European arrest warrant, despite its detractors, is actually extremely valuable in terms of extradition but, once again, it cuts both ways and it is not in anyone's interest to cut the UK out, whatever the outcome of Brexit.

One area that merits particular attention is the protection of data and the rules over the length of time that data should be held. This is a highly complex area and one we cannot afford to get wrong. It has taken huge negotiation, not least in its relation to cybersecurity. Once again, we are streets ahead of the EU in cyber. I had great difficulty as a Minister even getting them to take it seriously. They have done that now, but one needs only to look at current cyber events in Germany and France to see their huge vulnerabilities, and the same is true of a number of other EU nations. They need to work with better-prepared nations, of which the UK is one. Even we are having difficulty keeping up and are slightly behind the power curve. I say again that whatever the outcome of the Brexit debacle—I do not apologise for calling it that—there is a need to maintain some form of security union. The fact that without it the EU will lose more and be

more dangerous for its citizens is not the point. By working together, all of us, including the UK, will be safer over the next couple of generations and we may even be able to defeat terrorism.

On defence and foreign policy, the first thing to say is that UK defence intelligence is on a par with that of the US. Our close links with the US—for example the GCHQ-NSA 1947 agreement—are so close that most people in both our countries do not even realise how close it is. Our long-standing AUS/CAN/NZ/UK/US agreement—I can never pronounce it with the NZ in the middle—is a club that we belong to that gives us all sorts of data not available to the EU unless we pass it on. No EU nation has anywhere near our capability; we must not forget that. I say as an aside that it makes a nonsense of the EU's position regarding the UK's involvement in Galileo. It has said that we cannot be trusted with certain things: I have to say that I consider that decision to be completely disgraceful. It is very unfortunate that Europe did that.

We need to be very clear that our foreign policy does not always align with that of Europe. The fact that we are responsible for 14 dependencies, some of which EU nations object to, is sometimes problematic. We are a separate permanent member of the UN Security Council. We are a nuclear power. We have a far more global vision than do most countries in the EU, so we need to be wary when it comes to issues of European foreign policy. In defence terms, we and the US have ensured Europe's defence and safety since 1945, throughout the Cold War. Our expenditure on the military was second only to the US. The US clearly contributed the vast amount, but our expenditure was more than that of all the EU nations combined, apart from France, right up until about 15 years ago, and although it has been cut dramatically in the last 10 years we still spend more than any of those nations. We have been willing to deploy forces abroad in support of our NATO allies and I have to say that a number of EU nations found that problematic when it was clear that heavy fighting and casualties would be involved.

There is a lot of talk about the need for interoperability, and of course there should be interoperability, but that is an area that NATO has been very successful in for many years, with its STANAGs, for example. That is why we can go alongside another ship and refuel. That is why aircraft can land at another airbase and operate from there. Are we really saying that military interoperability within Europe is more important than with Canada and the United States? Many of the enablers that allow theatre entry operations to take place are owned by the United States, and the EU does not have them. If the EU were not interoperable with them, it could not take part in those operations.

The PESCO project and the European Defence Agency also worry me. Although we are major contributors to the European Defence Fund, it is quite clear that our European allies are trying to cut UK defence firms out. This, and a major part of President Macron's push for an EU army, is not to do with being able to fight better—which is what it is meant for—but rather to do with supporting Europe's industrial base, bloated headquarters and command structures, and trying to make a political point, not least to the

[LORD WEST OF SPITHEAD]

United States. It is worth noting as an aside that a number of EU nations do not meet the NATO commitment to 2% spending on defence, and have not done so for years.

The defence of Europe is crucial for the defence of the UK. Twice in the last century our nation has expended vast quantities of blood and treasure ensuring just that. It is not in the EU's interest, or our interest, not to keep us fully involved and integrated. If we are not, I fear we will yet again have to expend blood and treasure saving them from extinction.

6.51 pm

Baroness Smith of Newnham (LD): My Lords, the noble Lord, Lord West of Spithead, said that this is a timely debate. In some ways it is very timely, and in other ways it feels somewhat out of date.

We have just finished a debate on a report about treating students fairly from the Economic Affairs Committee of your Lordships' House. It too was published in the summer of 2018, and has aged quite well in the last six months—very little has changed. In terms of the report from your Lordships' European Union Committee on the proposed UK-EU security treaty, everything and nothing has changed. The noble Lord, Lord Jay, said when he opened this debate that in many ways he was not going to look at the report precisely because so much has changed.

When that report was written, it was very clear that security co-operation was essential, as we have heard from across the Chamber this evening. But it was also clear that security co-operation was not guaranteed. The idea that it is not a zero-sum game is important, but it is also important to understand that the law of unintended consequences—as the noble Lord, Lord Kirkhope, suggested—is a real risk. In July last year when the report was written, the Government and the committee were working on the assumption that there would be a withdrawal agreement and a transitional arrangement which would take us to the end of 2020. The report, and the Government's response, were written in that vein.

What we have seen in the last two weeks in the other place suggests that neither of those things may happen; we may not have a withdrawal agreement, and if we do not then we will not have a transitional arrangement. If security needs to be continuous, if there should not be a single minute between the arrangements that we have now and where we are when we leave the European Union, what is the Government's plan if, on 29 March at 23.01, we are outside the European Union and we do not have a deal?

I am speaking from the Liberal Democrat Benches, and your Lordships might think that I should not even be speculating that there might be a hard Brexit by 29 March—after all, that is certainly not what we are calling for, and is not what the House of Commons voted for last week. There was a vote that said the Government should not even be preparing to look at a no-deal Brexit—in other words, a no-deal Brexit cannot happen because the House of Commons will not allow it.

However, unless we amend the European Union (Withdrawal) Act 2018, we are leaving the European Union on 29 March. There may not be a majority in favour of a no-deal Brexit, but, unless in the next nine weeks there is some other arrangement, we are going to have a hole in our security. While the noble Lord, Lord West, is absolutely right that the United Kingdom has significant defence capabilities and has been one of the two main defence components of the European Union—along with France—and that it is in no one's interest to have a no-deal situation on security, the fact that we want something to happen does not mean that it will. The whole concept of a Brexit on terms the UK wants has already been proven to be somewhat fallacious. The report that was drafted in July 2018 was written at the time of the Chequers agreement—so-called—before the withdrawal agreement—so-called—and before the House of Commons said that it did not want the deal.

Even if a withdrawal agreement of some sort can be salvaged between now and March, what confidence can the Government give us that there will then be a security treaty in place leaving the United Kingdom and EU 27 as safe then as we are today?

Finally, can the Minister begin to tell us how we would get to that situation, given that some of the key aspects, as the noble Lord, Lord Jay, has made absolutely clear would be essential, include the jurisdiction of the Court of Justice of the European Union? That was one of the key reasons the deal was voted down in the other place; it was not just about the Northern Ireland backstop. That is going to be an issue for a security treaty as much as the withdrawal agreement. Can the Government give us any assurance at all that we will be secure?

6.56 pm

Lord Browne of Ladyton (Lab): My Lords, as the noble Lord, Lord Kirkhope, specifically said—and as the noble Baroness, Lady Smith, adopted and applied—the security of our citizens is the paramount responsibility of the Government. The security implications of Brexit have not been debated nearly enough, and I believe the Government should have found time for a comprehensive debate about it so that our citizens could be fully informed of the implications of this decision that they in the majority have asked us to make.

I commend and thank the noble Lord, Lord Jay, for the thoughtful way in which he introduced this report. I also congratulate the noble Lord and his committee on this excellent report. I will not be able to do justice to it in the time that has been allotted, but I will do my best. In so doing, I remind your Lordships that on 9 January in the debate on the EU withdrawal Bill I made a speech which was confined to internal security matters. That speech can be found at col. 2258 of the *Official Report*. Noble Lords will be relieved to hear that I do not intend to repeat it, as I went on longer than I should have, but I will repeat the theme of the speech—whether we leave the EU with no deal or with the Prime Minister's deal, our internal security would be significantly diminished.

I was not the only speaker to make that point. In the closing stages of the debate, on 14 January, the noble Baroness, Lady Manningham-Buller, who has

significant experience in security, also made reference to this inevitable consequence of Brexit. In winding up the debate, the Advocate-General for Scotland—the noble and learned Lord, Lord Keen of Elie—managed, in a speech which as I recollect made only passing reference to the actual debate, to find one paragraph in which to make reference to our future internal security. Referring to the contribution of the noble Baroness at col. 101, he was willing to concede that there is an issue of “police co-operation”, asserting that it could be maintained,

“beyond the EU by reciprocal arrangements—for example, in the case of Norway and Iceland”—[*Official Report*, 14/01/19; col.117.]

by specific agreements which will apparently,

“maintain the sort of relationship that we would intend to have going forward”.—[*Official Report*, 14/01/19; col.117.]

I remind your Lordships that, in the words of the Prime Minister—specifically, her Statement when she came back from the December European Council—this will be,

“the deepest security partnership that has ever been agreed with the EU”.—[*Official Report*, Commons, 17/12/18; col. 527.]

That clearly implies an agreement that is better than the Norway and Iceland agreements.

As a simple aide-memoire, I have with me Norway’s official brochure, which can be found on its Government’s website, on what Norway’s partnership with Europe means. If anybody takes the trouble to look at it, they will see that pages 18 and 19 cover justice and home affairs and the Schengen agreement. I do not intend to go through this shortened version, but it has a number of agreements with the European Union. To get access to EU police co-operation, Norway had to join the “Schengen co-operation”, as it refers to it, in 2001. In order to beat that, do our Government intend to join the Schengen co-operation or to make some similar arrangement with the European Union to meet the challenges of the political declaration? The brochure goes through all the agreements on another page.

The important thing is that this is the result of what appears to be 13 years of negotiations, and even the co-operation with regard to the European arrest warrant, which was agreed in 2014, has not, four years later, entered into force. That seems to echo many of the recommendations in the report that we are debating, which are probably expressed more temperately than I have put them. The Government may think that they can do it another way, but the evidence does not suggest that they can.

The report that we are debating was published, as we have heard, in July. Since then, the negotiations with the EU on withdrawal have concluded, and on 25 November the Government published their agreement and the accompanying political declaration. On 28 November, the Government marked their own homework, publishing their assessment of the part of the political declaration which dealt with policing, judicial co-operation, foreign policy, security and defence. Not surprisingly, they passed. Their assessment was that the Prime Minister’s deal is better than no deal. Importantly, what was missing and what has been missing consistently from the Government’s engagement on this issue is an assessment of what that will be compared to what we already have. No Minister will

ever utter those words or explain it to anybody. I am therefore offering the Minister the opportunity to answer the question I put in the debate. In the compromise negotiations that will be necessary in the event of any form of deal, what parts of our security are the Government willing to compromise on, and to what extent? The people of this country need to know that and deserve to know it, and even if they voted for Brexit, they certainly did not vote for that.

7.03 pm

Lord Ricketts (CB): My Lords, I am a member of my noble friend Lord Jay’s sub-committee. I want to take issue partly with the noble Baroness, Lady Smith of Newnham, when she says that the report we produced last July has now been largely overtaken. It has taken six months to reach the Floor of your Lordships’ House, and we are shooting at something of a moving target—I know the Royal Navy has always found that difficult—but it is still relevant.

Baroness Smith of Newnham: My Lords, I meant absolutely no criticism of the noble Lord, Lord Jay, or the committee; it was just the result of the way these things work. I understand that timeliness is not necessarily in the hands of the committee.

Lord Ricketts: I understand. I was going to say that the report is still very relevant because it is a powerful and evidence-based assessment of why it is vital that we maintain close security co-operation with the EU, whether or not—and on what terms—we leave. As such, it is important to have that on the record.

My own judgment, as the UK’s first National Security Adviser, like that of the noble Lord, Lord West, is that the security of this country and its citizens is best provided for by staying in the EU. If that is not to be, the,

“broad, comprehensive and balanced security partnership”, set out in the political declaration is a lot better than a no-deal outcome. No deal would immediately exclude us from the whole range of EU security co-operation set out in the report, which has saved British lives. Speaking of no deal, I note that there is nothing, so far as I can see, in the technical notices issued by the Commission on no-deal contingency planning on its side about continuing co-operation on security.

I realise that the view I have set out on the importance of EU security co-operation is fundamentally at odds with that of some distinguished retired practitioners. Yes, I refer in particular to Sir Richard Dearlove and the noble and gallant Lord, Lord Guthrie, who sent a joint letter last week to the chairmen of Conservative Party associations—not, I suppose, an address list chosen completely at random—which mysteriously found its way into the media. This letter thundered that the withdrawal agreement would,

“threaten the national security of the country in fundamental ways”.

It spelled out that the proposed security partnership would cut across the Five Eyes alliance, and put control of aspects of our national security in foreign hands. These are serious charges. However, the letter did not explain why the authors took such a doom-laden view. It may be relevant that both writers had retired

[LORD RICKETTS]

some time before the EU developed the full range of co-operation we now see. As a more recent security practitioner, I want to touch on why I believe the EU plays a vital role, and to reassure the House that we in the sub-committee have not somehow missed an important area that threatens our security co-operation.

Defence is not the subject of today's debate—although the noble Lord, Lord West, has touched on it—but since it is a major point of the letter, let me say that if Britain were to participate in some EU military missions after leaving the European Union, as I hope we would, that would be a sovereign decision of this country. Nothing in the withdrawal agreement would bind us to do so; it would be a voluntary choice.

On intelligence co-operation, nothing proposed in the security partnership with the EU would cut across our vital Five Eyes intelligence sharing. That is for the simple reason that co-operation between intelligence agencies in Europe happens outside the EU treaties and will continue to do so. Do not take my word for it: the noble Baroness, Lady Manningham-Buller, to whom reference was made in the debate in your Lordships' House on Monday, described it as “nonsense” to suggest that co-operation with the EU on security would upset the Five Eyes community. Indeed, she said that its members have always valued our link with the EU. This reflects the key point that intelligence is useful only if it is followed up with good, effective police co-operation work. The whole thrust of our committee's report is that it is the measures and instruments that have grown up in EU co-operation that enable UK law enforcement to operate effectively across borders. The police consulted the SIS II database 539 million times in 2017.

Of course, the EU takes the same view, and the political declaration makes that very clear. In a proliferation of adjectives, it refers to the need for a, “comprehensive, close, balanced and reciprocal ... future relationship”, on security. That is fine as a prenuptial contract, but it now needs to be translated into reality. I share the concerns expressed by other noble Lords and set out in the report over whether a vast, overarching security partnership across many areas can be agreed even in the course of a transition period, to say nothing of what would happen in the event of a no-deal departure.

My experience is that the wheels of Brussels grind awfully slow, and certainly on such a sensitive issue. The report is right to suggest that work should be done on ad hoc security arrangements to mitigate, if necessary, any reduction in operational co-operation while a longer-term agreement is negotiated. I hope that is already under way and the Minister will be able to reassure us that it is the case, even if we have an agreement and a transition period. Like others, I will be interested to hear what the Minister has to say about no-deal contingency planning. We cannot afford to take risks with the safety of people in this country.

7.10 pm

Baroness Massey of Darwen (Lab): My Lords, I must first thank the noble Lord, Lord Jay, for introducing this debate with such rigour and for his excellent chairing of the EU Home Affairs Committee, of which

I enjoy being a member. The past two years have been exciting, busy and sometimes perplexing, and he has handled the many Brexit-related issues with enormous skill and determination.

Many of those issues, processes and priorities are still relevant at this time of kaleidoscopic uncertainty. We know that issues regarding Brexit are complex, and need time and due process to be considered properly. Security is one of the most complex. Our report expresses concern about timescales; this problem is being demonstrated by colleagues working on statutory instruments. There are hundreds to consider, with so little time to do it well. We know from experience that the time needed to negotiate EU agreements with third countries is long, in view of the density of the issues. My noble friend Lord Browne described this graphically.

Among our witnesses during the inquiry for the report, considerable variation of opinion was offered on the issue of a treaty. For example, one witness doubted that a treaty could adequately replace existing instruments because it is unlikely that European law will stand still. Other witnesses felt that a treaty would be the best way to ensure an effective security relationship between the UK and the EU and show political commitment.

Sir Rob Wainwright, a former director of Europol—the excellent Brit noted by my noble friend Lord West—has expressed the view that in an,

“ideal world there would be no change to the UK's current arrangements”,

on security. However, he also recognised that this scenario was “not realistic”. The delicacy of agreements and negotiations on security was apparent in both our inquiry and the one we carried out in 2016 on policing and security. For example, as stated in our report, the EU's JHA covers a wide spectrum of police, judicial, criminal, civil and family law matters. Some EU member states have negotiated balances between retaining certain powers and sharing others with the UK. This sharing and co-operation may of course continue, whatever happens.

What also struck me was how great the role of the UK has been on various committees in Europe. We have led in several fields. This is likely to diminish. We may get co-operation, but we will not have the leadership we have had—what a pity. It is recognised that the EU benefits from security co-operation with the UK. On 19 June, the director of GCHQ stated:

“These threats are more complex and more global and none of us can defend against them alone”.

The European arrest warrant, a key element in security issues, raises particular concerns. I cannot go into the intricacies now, but I ask the Minister to qualify the UK's likely position on the EAW post Brexit, given the committee's concern in its conclusion on page 24 of its report.

The House of Commons Exiting the European Union Committee report states at paragraph 88:

“The Political Declaration appears to rule out continued UK participation in the European Arrest Warrant”,

as the warrant,

“is linked to EU membership, including free movement of people, the Charter of Fundamental Rights and EU citizenship”.

The political declaration states that the two sides will seek replacement extradition arrangements instead, establishing procedures,

“to surrender suspected and convicted persons efficiently and expeditiously”,

as a replacement for the European arrest warrant. What does that mean? What procedures are we talking about and under what timescale? Our committee concluded:

“We have, however, seen no evidence that sufficient progress has yet been made towards negotiating a comprehensive security treaty”.

Is the Minister confident that within the next few months, we will have a security treaty that will sufficiently protect our country? What does she think the Government should do, given that we seem unprepared to guarantee security measures? I look forward to her reply.

7.14 pm

Lord Anderson of Swansea (Lab): My Lords, there is a spectre haunting this debate: yesterday’s vote in the House of Commons, which makes us see the future even more darkly than was the case when the report was drafted by the committee. In the heady days of the referendum campaign, Brexiteers would talk on their platforms and in the media about decoupling from the EU being easy and not a serious problem. Boris Johnson spoke triumphantly of an independence day, when the UK would no longer be a vassal state. With one bound, we would be free, on our own again, our borders, our finance and our laws no longer subject to the judgments of foreign judges. Indeed, the removal of the jurisdiction of the court of justice was a key red line. It seems odd that No. 10 is apparently briefing today that that red line will continue, notwithstanding yesterday’s vote.

We have certainly narrowed our options. That is one reason we owe so much to the noble Lord, Lord Jay, and his committee. He has given us a great dose of realism—we cannot expect the benefits but avoid the laws and regulations. He has also shown us very clearly the complexity of disengagement from our European alliances and those conventions built up over the past three or four decades, including access to databases, a point very well made by the noble Lord, Lord Kirkhope.

It is clear that we have made some movement, and I welcome the fact that, at least during the proposed transition period, we can continue to participate in key agencies, but of course not in their governance, which must logically mean, over time, the erosion of our influence on policy and direction. One example of that is the European arrest warrant, which has been of enormous benefit to us, as we have seen in a number of key terrorist cases and cases of abducted children, when we can quickly get the malefactors back to the UK—an enormous improvement in speed and finance on the previous Council of Europe convention. The Government’s position may mean, however, that we will have to fall back on that rather inadequate convention.

There is a further problem relating to Article 168. The noble Lord, Lord Jay, said that he had written to the Government but answer, as yet, there is none.

Problems will arise, and not just in relation to Germany. It would be interesting to know from the Government which other countries may have similar domestic problems. The Government repeat the mantra that this would not involve giving the Court of Justice of the European Union jurisdiction over the UK. But what else can using those agencies mean? This is surely just playing with words.

The same is true in respect of Europol. Colleagues have already quoted its former director, Rob Wainwright. I think it was my noble friend Lady Massey who said that in an ideal world there would be no change to the UK’s current arrangements and that any change would be second best. We are indeed involved in a process of damage limitation. Rob Wainwright praised the contribution of the UK as a lead member in key multinational operations and mentioned that there is no precedent for a third country having suitable arrangements on the lines that we seek. I will not mention the security treaty—the title of the report—because that has almost certainly been overtaken by events.

Finally, I turn to the European Court of Human Rights, mentioned in paragraph 158. Surely the Government need to explain urgently how fundamental rights will be protected after Brexit. They have said they will reform the Human Rights Act after Brexit. What will be the nature of that reform? They have talked about a framework of the European Court of Human Rights. The European court and the convention are fundamental to the Council of Europe. The Government claim that they do not envisage leaving the Council, where, on the whole, we have an exemplary record, pace the case of *Hirst*.

I have a final positive reflection. The Government claim they will seek,

“a deep and special partnership”,

with our allies, but this task has been made more difficult by the red lines. I take comfort from there being throughout this dossier a mutuality of interest between us and our European partners. I hope that mutuality of interest will lead to relevant compromises that will at least ensure that the clear damage is limited.

7.20 pm

Lord Soley (Lab): My Lords, this report is of immense importance. It is hard to overstate its importance to the safety and security of the people of the United Kingdom and throughout the European Union—and possibly more widely as well. The way in which we have participated in this process has been of great value to Europe and the UK. Europol director Rob Wainwright has been mentioned a number of times, but I also mention the staff who work for us over there generally. I have been as a delegate to the home affairs and justice committee of the European Parliament, chaired by Claude Moraes, a British MEP who will, of course, no longer be there as an MEP after we leave. The noble Lord, Lord Kirkhope, did a great deal of work in this area when he was a Member of the European Parliament. In other words—to summarise some of the comments already made—the British have made an extraordinary contribution to the security and safety of Europe and Britain.

[LORD SOLEY]

The lack of preparation for leaving and dealing with security has troubled me. I have raised it a number of times in this House and am by no means the only one to have done so. What troubled me most was that it was very obvious soon after the referendum in 2016 that we were going to lose the ability to exercise our rights under the European arrest warrant. The European arrest warrant is of immense value to Britain. It enables us to hand over criminals to other countries in the European Union and them to hand criminals back to Britain. That will no longer be possible when we become a third country, not least because some countries, notably Germany, have in their constitutions that they cannot automatically deport to a third country without a legal agreement.

When we heard that the Government recognised the need for a UK-EU security committee, we recognised that that was important. The evidence that the committee—chaired so ably, as usual, by the noble Lord, Lord Jay—took throughout revealed to us just how much value was placed on our work. Rob Wainwright has already retired; other people from the United Kingdom will go; we will lose the chairman of the home affairs group, as I have said; and now we have to draw up a security agreement that will work. I welcome the words in the political declaration indicating that we seek,

“an ambitious and comprehensive future security relationship ... law enforcement and judicial cooperation in criminal matters”,

but that understates the difficulty. To draw up those agreements will not be quick. I make the point, which I have made before, that, particularly given events in the House of Commons yesterday, it is very important that we start thinking about this political declaration and how we move forward on some of its contents to avoid some of the traps we will fall into when we find that we can no longer get our hands on serious criminals, including terrorists, who operate in Europe and back here. If people knew the backgrounds of some of the criminals and terrorists who have been picked up or stopped from carrying out their actions as a result of the work we have done, they would be very alarmed—and they would be right to be.

So I echo the question to the Minister from the noble Lord, Lord Ricketts, who asked if the Government are preparing ad hoc arrangements to fill this gap. I am not sure how those ad hoc arrangements can work, because I am not sure how Germany will be able to deal with its constitutional issues, but it is profoundly important. I emphasise that the evidence given to us across the board was profoundly important. When I was in a couple of meetings of the European home affairs and justice committee chaired by Claude Moraes, a number of people said, “Don’t leave; we need your experience and knowledge”. People do not understand the extent of it, but it is profoundly important.

This report is very important. We cannot solve the problem quickly; I understand that. But if we work on the political declaration, we might make progress. The committee chaired by the noble Lord, Lord Jay, is very ably served by the staff of the House of Lords. When I went to Europe and attended a number of these meetings, I saw that the reports from this House are valued. People refer to them when they speak. It is very significant.

We will lose that; that is almost inevitable now. So I echo the noble Lord, Lord Ricketts, in saying that the Government need to get real about security and come up with some ad hoc and other arrangements that will, at least to some extent, fill the very large hole we are about to leave in the security arrangements of the UK and the EU.

7.26 pm

Lord Bilimoria (CB): This report, the proposed UK-EU security treaty, starts:

“The UK and the EU share a deep interest in maintaining the closest possible police and security cooperation after Brexit: protecting the safety of millions of UK and EU citizens must be the over-riding objective”.

I thank the noble Lord, Lord Jay, and the committee for this excellent report. He started by saying:

“Negotiations on security are not a ‘zero sum game’: we all stand to gain from agreement, and we all stand to lose if negotiations fail”.

He also quoted Sir Julian King, who said that,

“security cooperation should be unconditional”.

It should also be continual.

We now have transition agreements, supposedly, and Article 168, which the noble Lord, Lord Anderson, spoke about. During that transition period, we will be subject to the ECJ. The noble Baroness, Lady Smith, spoke about this. What about our future relationship with Europol and its operational status, the closer integration we seek with Europol and the compromises the Government will make? What about the European arrest warrant, which so many have spoken about? There is no evidence that sufficient progress has been made in negotiating this comprehensive security treaty. Could the Minister tell us more about this? This is so crucial because it will be underpinned by data sharing, a topic that so many of us have spoken about. We should not forget that the co-operation that exists on Northern Ireland is on an informal basis. Will that continue on a formal basis between the UK, Ireland and Northern Ireland within the UK?

The European Criminal Records Information System is one example of data sharing. The UK sent and received 163,000 requests and notifications for criminal records in 2017. That is phenomenal. Going ahead, will we have access to all this? This balanced security partnership, broad and comprehensive—this is all waffle. It is nonsense. The good news is that some of it will continue. I believe the passenger name record and Prüm data will continue. Then we are told we will not have access to the Schengen Information System II, nor the ECRIS. Could the Minister confirm this? It is also unclear if co-operation with Europol or Eurojust will go beyond third-country arrangements. These are vital tools.

The House of Commons Home Affairs Committee in December produced a report on *Home Office Preparations for the UK Exiting the EU*. It spoke about data sharing and all these things I have just spoken about. What did it conclude? The report welcomes the access to Prüm and PNR, but states:

“We are extremely disappointed by arguments made...that SIS II should only be open to member states...within... Schengen”.

We are not in Schengen. Look at the risks we have here. The report states that failure to retain access to ECRIS would be,

“a significant downgrade of our policing and security capability at a time when cross border crime and security threats are increasing”.

It goes on to mention a figure:

“UK agencies check SIS II over 500 million times a year and there is no adequate contingency”.

Listen to that one fact alone. The report continues:

“Losing access would, as the police have warned, make us less safe”.

What are the Home Office’s plans to deal with that? The report concludes by saying:

“From the evidence we have received, it is clear that no deal would represent a risk to public safety and security”.

It is as simple as that.

Let us look at the report produced in December by the Exiting the European Union Committee on the progress of EU withdrawal. On the dispute over UK participation in Galileo, which the noble Lord, Lord West, mentioned, it states that this demonstrates that,

“the depth of cooperation will, in many cases, depend on what the EU decides it wishes to allow under EU rules ... The overall level of EU-UK cooperation will be less than it is now, as will be the UK’s influence on the strategic direction of EU foreign and security policy”.

There you have it.

Then we have Sir Anton Muscatelli. He says it was London’s assumption that the EU would want to share because we are so good at security, as the noble Lord, Lord West, spoke about, and that it would surely not want to lose our powerful “military, global diplomatic clout”. But the EU has shown no signs yet of doing that. He concludes by saying that, reading between the lines of the political declaration, we are set to,

“lose access to the key Europol and criminal records databases, and to the European Arrest Warrant”.

He spoke also about Galileo.

Here, however, we have the Prime Minister going on about the “unconditional commitment” to European security and asking why the EU has not reciprocated. I will tell noble Lords why. As our very capable Metropolitan Police Commissioner, Cressida Dick, said, if there is no deal, it would be,

“more costly, undoubtedly, slower ... and, potentially, yes, put the public at risk”.

My noble friend Lord Ricketts, our first National Security Adviser, said that we would be far safer remaining in the EU. The noble Lord, Lord Browne, a former Minister, said that the security of citizens is the number one priority of any Government. No deal is not an option, not just because of the Dover-Calais corridor but for security reasons alone. The Prime Minister’s deal—one and three-quarter years to get a 600-page withdrawal agreement—is on three areas: people, money and getting our laws back. Here we are saying that we are going to be subject to laws on a security basis—but there is no mention of security, and nor is it covered by the 26-page political declaration, which is a wish list. Even during the transition period we will be subject to ECJ laws, as the noble Baroness, Lady Smith, spoke about.

What about the platitudes? What about the red lines of no more customs union, no more single market and no more ECJ? As we have seen, this is all hypocrisy. As the noble Lord, Lord Soley, said, if people realised this, they would be alarmed. Would they vote for Brexit if they heard even this one debate? When people see that the Brexit emperor has no clothes, there will be only one solution: to go back to the people, with full information, to give them a say through a people’s vote.

7.33 pm

Lord Bach (Lab): My Lords, I congratulate the members of the committee on conducting this excellent inquiry and, in particular, the noble Lord, Lord Jay, who opened our debate today in such a comprehensive fashion. I declare my interest as the elected police and crime commissioner for Leicester, Leicestershire and Rutland. Further, and more specifically, I am one of the three police and crime commissioners asked to look at the consequences of Brexit on behalf of the Association of Police and Crime Commissioners. In that role, the three of us had a meeting this very afternoon with the Home Secretary. I expressed my gratitude to him for seeing us on a day when other matters are so pressing. The issues raised at that meeting concerned the post-Brexit position for policing and security. Different conditions arise—all of which are incredibly serious—depending on whether we leave as part of a deal or with no deal at all.

In my short contribution tonight I want to say a few words about the position as I see it if there is a deal. I speak as someone who, every day of my working life, deals with senior police officers on this and other matters. Chapter 4 of the report we are debating tonight deals with the transition period. With a deal, that would take us to the end of 2020, with an agreement that present arrangements would continue, for the most part, for 21 months from the end of March this year. But 21 months is not a long time to reach consensus on the future of the vital agreements that at present play such an important and positive role in policing, not just here but in the EU. I will not detail these agreements; that has been done many times and they are well known to noble Lords, as is the fact that they have added greatly to the efficiency and effectiveness of policing, both at home and abroad.

The United Kingdom will become a third party—a rather special third party, or so we would like to think. But history shows that it can take many years, and is sometimes impossible, for agreement to be reached by the EU and countries outside it, even when both want to agree on the issues raised. We cannot allow that to happen in this case.

Unfortunately, it is pretty clear that even now—let alone in July, when the report was published—negotiations have not seriously commenced on these issues between Her Majesty’s Government and the EU Commission. I am sure that some work has been done on both sides, but it has clearly not been anywhere near a priority for either side, and proper discussions about the future have in my view been too long delayed. European Parliament elections and the setting up of a brand new Commission will potentially considerably reduce the

[LORD BACH]

period of 21 months, maybe to as little as 15 months. That is a short time indeed. How grievous it would be if, almost by default and unintended consequence, these hard-won and successful agreements and arrangements fell. As has already been said in this debate, it would directly affect the security of people's lives in both our country and the EU. Frankly, it would be unforgivable.

7.37 pm

Lord Judd (Lab): My Lords, to pick up on what my noble friend Lord Bach said, there is a tendency to be mealy-mouthed on these matters and to talk about the irresponsibility of the failure to prepare properly and take these issues seriously. If noble Lords will forgive me for saying so, it is much graver than that. I believe that, as the noble Lord, Lord Bilimoria, said so strongly, no deal would be—and here I choose my words carefully—treachery and a betrayal of the British people on what is vital to their interests: their security. It is an extremely grave matter. That is why the report of this committee is so important. I thank the noble Lord, Lord Jay, without qualification, for giving us the opportunity to look at it this evening and for the sensible way in which he introduced it. We are indeed fortunate to have someone with his experience chairing and leading on these matters.

A fundamental failure on the part of successive British leaders has been the failure to face the reality that the European project was always political. Where this naive idea came in that somehow we were interested only in the common market dimensions of it and were not really interested in the political union I do not know. Going back to the origins, when we were talking about coal and steel, it was important to have sensible arrangements for coal and steel in the future of Europe but that was not the end: the objective was to build a stable, secure Europe and never again to have the searing experiences of the Second World War. It has been a tragedy that we have failed to understand this in British culture, because we have ill prepared the British people to understand the significance of the issues with which they are now confronted.

We are talking about the importance of Europe in security matters. The times in which we live underline this, because the volatility and unpredictability of US foreign policy under its present leadership are dangerous. My noble friend Lord West spoke with so much authority about the importance of the intelligence relationship with America. That underlines the dangerous situation in which we are placed. Everything my noble friend said was true, but, in reality, that is in the context of unpredictable and extraordinarily volatile happenings in the United States.

There are a couple of other reasons why this is so vital. One is the new policies of Russia under Putin: the interventionist lines he is following and the deliberate destabilisation of many parts of the world, including western Europe. That is another reason why we should be holding together with the European community as a whole—of course it is. However, closer to home, there are also the issues of Poland, Hungary and Romania, and some might say that this is therefore an unwise time to be more involved in the politics of

Europe. Quite the reverse; this is a time to be in there playing our part, devising and strengthening the policies which are necessary to confront the forces of reaction and destabilisation. It is tragic to see Britain walking away at the very time when the challenge is greater than it has ever been.

In conclusion, I have become totally convinced that crime, trafficking, drugs and terrorism are all international. It is absolute madness to be moving away from close co-operation with Europe. Everyone I have heard giving evidence to the Home Affairs Sub-Committee, for example—anyone who has any kind of responsibility in these fields—has said that it would be nothing but to the detriment of the effectiveness of all that has been achieved in recent years if we were to move away. We need very convincing policies from the Government and there is no sign of them yet.

7.44 pm

Baroness Ludford (LD): My Lords, I too thank the Lords European Union Committee and specifically its Home Affairs Sub-Committee for this report. I share the admiration expressed for that sub-committee and for its excellent chairman, the noble Lord, Lord Jay of Ewelme. I can be objective because I am a member not of that sub-committee but of its sister sub-committee on justice. I worked on security and criminal justice for 15 years in the European Parliament, as did the noble Lord, Lord Kirkhope. In fact, my last work in the European Parliament was a report calling for reform of the European arrest warrant, which, unfortunately, has not been progressed.

The bottom line is that we will be less safe if we Brexit at all—not only with no deal. The European Union Committee said in its report on the withdrawal agreement and political declaration that,

“the UK will necessarily cease to be part of the EU's law enforcement and security ecosystem”.

That is a good term because the whole thing hangs together. The reasons for this loss of capacity are the Government's red lines against free movement and ECJ jurisdiction. So this reduction in safety is the fault of the Government.

The police—including Lynne Owens, the director-general of the National Crime Agency, and Metropolitan Police Commissioner Cressida Dick—have been outspoken in their views. Cressida Dick was misreported because the headlines said that she was worried about a no-deal Brexit but, where her remarks covered Brexit at all, she said:

“We will have to replace some of things we currently use in terms of access to databases, the way in which we can quickly arrest and extradite people, these kinds of things, we'll have to replace as effectively as we can. That will be more costly, undoubtedly, slower, undoubtedly and, potentially, yes, put the public at risk”.

Those remarks covered any kind of Brexit.

Malcolm Chalmers of the Royal United Services Institute said:

“The UK will have to make much harder choices between sovereign control and operational effectiveness than it has had to take while still a member state. In security terms, the full benefits of membership—combining both shared decision-making and operational effectiveness—cannot be replicated under the proposed deal”.

The noble Lord, Lord Browne, was right to ask the Government what aspect of our safety they will sacrifice.

The political declaration is vague and could be interpreted narrowly or more broadly in terms of the closeness of co-operation. The chances of getting a security partnership concluded and ratified before the end of transition, even if that is extended by two years, do not look good as in all likelihood it will be a mixed agreement, requiring ratification in all member states.

In her Florence speech in September 2017 the Prime Minister expressed the ambition for a “bold new strategic agreement” on security, law enforcement and criminal justice co-operation which would build on,

“our shared principles, including high standards of data protection and human rights”.

Yet the Government she leads refused to incorporate the Charter of Fundamental Rights because of an ideological prejudice against it. When they implemented the European investigation order, instead of referencing the charter as grounds for refusing an EIO, they substituted the ECHR. I have mentioned this several times because I think it is a breach of the EIO; it is a wrong implementation. However, it will not be high on the Commission’s to-do list.

Now there has been an exchange of letters from which I can quote because the correspondence has been published. The Lords European Union Committee, via the Justice Sub-Committee, wrote to the Government about the discrepancy between the summary draft of the political declaration published on 14 November and the final version. The draft referred to how the relationship would be underpinned by:

“Reaffirmation of the United Kingdom’s commitment to the European Convention on Human Rights”,

and said that in respect of law enforcement and criminal co-operation there would be,

“continued adherence to the ECHR and its system of enforcement”.

However, the final document diluted these formulations, saying that the UK would merely agree to,

“respect the framework of the European Convention on Human Rights”,

although the part on JHA retains the phrase about continuing adherence to giving effect to the ECHR.

However, I am afraid that we have had a reply from the Ministry of Justice which is less than reassuring. It talks about how the Conservative manifesto,

“committed to not repealing or replacing the Human Rights Act while the process of EU exit is underway”.

It continues:

“It is right that we wait until the process of leaving the EU concludes before considering the matter further in the full knowledge of the new constitutional landscape”.

That begs the question of what is meant by,

“until the process of leaving the EU concludes”.

I am not sure what date that is supposed to be. However, the point is that this does not rule out abolishing the Human Rights Act. That ball is still in play in the internal dialogue in the Conservative Party.

Therefore, having refused the charter, saying that all our weight is on the ECHR, the final version of the political declaration talks only about respecting the framework of the ECHR, and now we are told that the Government could still abolish the Human Rights Act. This will undermine potential co-operation on law enforcement and the safety of British citizens, all

because of ideological fixations. I raised this matter in the Chamber—it was that which prompted the correspondence. Once again, can the Minister give us a commitment that the Government will not abolish the Human Rights Act?

The UK has declined to take part in various fair trial measures ensuring procedural rights for suspects and defendants, including, bizarrely, the right to a lawyer, where we have the gold-standard provisions in Europe. When Mr Grayling was Justice Secretary, he told me that the UK would not opt in because we already provide a high standard, but what about the idea of encouraging others to do so?

At present, the protection of the charter—for instance, for someone against whom an EAW is issued—compensates for some of those omissions. However, the Government have refused to retain the charter, so this could well have operational consequences. The basis on which we make human rights guarantees in the context of the European arrest warrant, the EIO and so on, switches from the charter to the European Convention on Human Rights, but now that is undermined as well. The Government are being extremely short-sighted.

Others have mentioned that, although the political declaration talks about passenger name records and Prüm—of course, Prüm started as an intergovernmental instrument, so perhaps it is not so surprising that it is name-checked—there is no mention of the SIS or ECRIS. The political declaration talks only of arrangements that “approximate” those EU mechanisms and does not even offer the possibility of access, with the caveat that arrangements will be made only,

“so far as is technically and legally possible”.

The Government rail against this sometimes but there are rules. If you are an EU member state, you have certain rights to be covered by EU instruments. If you are not, things are a great deal more difficult. I remember the precedent of the Schengen visa information system. It seems extraordinary now but in 2005, as a Brit, I was permitted to be the European Parliament’s rapporteur on that measure. The UK envisaged some kind of pipeline into the visa information system but was denied access on the grounds that the UK does not participate in the migration aspects of Schengen. Therefore, there are plenty of precedents for saying, “You either sign up fully or you are in a different category”.

We all know that we will need a data adequacy decision covering both commercial data exchanges and law enforcement. However, to do that, the UK will need to agree to an ECJ role in resolving disputes. We also know that a dim view may well be taken of the degree of surveillance in this country. Extraordinarily, the Home Secretary has described SIS II as “nice to have”. Can the Government tell us whether they want access to SIS II or whether it is just some decorative add-on that is not terribly important? If we have to fall back on the European Convention on Extradition, drawn up by the Council of Europe in 1957, can they also tell us how many countries refuse to extradite their own nationals? There does not seem to be precision on the numbers; there could be 18, 19 or 22—in any case, there are a lot.

[BARONESS LUDFORD]

Finally, I was interested to see yesterday, among all the excitement in the other place, that one item went through without debate on a UK opt-in to the new Eurojust regulation under Protocol 21. However, the political declaration offers only the prospect of working together,

“to identify the terms for the United Kingdom’s cooperation via Europol and Eurojust”.

The noble Lord, Lord West, said that we will not have another director of Europol if Brexit goes wrong. We will never have another director of Europol if we are not a member state. We will not be able to request the setting up of joint investigation teams in Eurojust and so on.

The Government seem to believe in British exceptionalism and British specialness and think that they can buck the ecosystem of EU structures and so on. Why do they think they can do better than Denmark on Europol? Why do they think they can do better than Norway in regard to the European arrest warrant? What basis is there for the Government’s belief? Is it any more than this rather superior attitude of British specialness?

7.56 pm

Lord Kennedy of Southwark (Lab Co-op): My Lords, as other noble Lords have done, I thank the European Union Committee for producing the report we are debating today and I thank the noble Lord, Lord Jay of Ewelme, for moving the Motion that has enabled us to have this debate. I also thank him for his chairmanship of the Home Affairs Sub-Committee of the European Union Committee, whose deliberations have resulted in this excellent report.

My first reflections on reading the report and the response from the Government were that whatever in the end is agreed upon, it will be inferior to what we have in place today in relation to security matters. My noble friend Lady Massey of Darwen made reference to that in her contribution. This should concern all of us, as it will leave the United Kingdom and our European friends and neighbours less safe and in a more precarious position.

My noble friend Lord Browne of Ladyton was absolutely right to draw the House’s attention to the lack of debate and discussion on the security implications for the UK of implementing the decision to leave the European Union. The noble Lord, Lord Ricketts, has great experience in security matters and the Government should listen to his wise words very carefully. My noble friend Lord Bach brought to the debate his experience as a police and crime commissioner and the particular risks that we face as a third party in not getting a proper, comprehensive agreement. As my noble friend said, failure to do so would be unforgivable.

Looking at the Government’s response, I was struck by phrases such as “should not” and “may continue”. It also contains the phrases,

“where the presence of the United Kingdom is necessary”,
and:

“The exact nature of the UK’s participation is a matter for further discussion”.

Another refers to the new situation not being,
“at the expense of protecting the public”.

In my opinion, those words do not provide anything other than confirmation that we are going to be in a worse position because of this extreme ideological right-wing-driven Brexit, and nothing has changed in that respect as far as I can see.

The committee’s report is excellent and illustrates the important work done by the committees of this House. However, it is disappointing that we are debating it six months after it was published. When I reflect on the number of times we have finished early in this House, there is no doubt that we could have found time to debate this report in October or November last year. Those who control the agenda of the House have to do better and allow a timelier discussion on these important reports produced by committees of the House. This is sadly not the first time other noble Lords and I have made this point in respect of debates scheduled on reports of committees of the House. I very much agree with the comments of the noble Baroness, Lady Smith of Newnham, in this regard. I share the view that it is a matter of paramount importance that we maintain the closest possible relationship after Brexit: that co-operation, working together and the sharing of information are vital to protect the millions of people who live and visit the United Kingdom and our friends and neighbours in the European Union.

If we fail to achieve this, the only winners will be criminals and terrorists. The noble Lord, Lord Kirkhope of Harrogate, was absolutely right when he spoke of the need to have a comprehensive agreement in place, and said that not doing so places us in a very unfavourable position. So my first question to the Minister is whether there is even one tangible benefit to our safety and security that will be achieved as a result of us leaving the European Union. On reading the report and the response from the Government I cannot see that even one has been identified.

Our police and security services are some of the best in the world. Every day they work to save lives and foil terrorists and criminals who wish to do harm to individuals and to critical infrastructure. My noble friend Lord West of Spithead has great experience in these areas and worked as a Minister. I agree fully with his remarks that we need to have a comprehensive security union in place. The police and security services have our full support but can the Minister say something about how the Government will ensure that co-operation will continue at the same level? The risk I want reassurance on is that—despite reassurances from both sides—as a third country, we will not be in the room and we will drift apart. How will that be prevented?

I understand the point about shared tools, measures and capabilities but if you are not at the meeting your involvement and your ability to influence must be detrimentally affected. Where we will end up in the next few weeks is somewhat more uncertain following the events of the last few days, but the report quite rightly looked at the proposed transition period. So assuming that there will be a transition period—that takes more imagination now—can the Minister confirm there will be no circumstances in which, if invited, the UK would not co-operate in any new European Union measures? Can she also confirm that the UK will positively seek to participate in meetings of EU agencies and bodies where security matters are under consideration?

Crime and terrorism, as we have heard, do not respect nation-state borders. Security concerns identified in one area or one country can result in something happening elsewhere whether we are in the EU, outside the EU or in a transition period. These matters are not the top priority for terrorists and international criminals other than in respect of where we have weakened our protections.

I very much agree with the committee and the Government that we must do everything we can to achieve continued involvement with Europol at the highest levels. My noble friend Lord Anderson of Swansea made reference to the lack of influence that must come over time from not being part of the governance arrangements of various bodies, and the detrimental effect that that will have. My noble friend Lord Judd highlighted the precarious situation we find ourselves in and how important it is to play our part in strategic activities. Can the Minister outline what ongoing work is taking place to deliver the closest possible engagement with Europol? Are we going to seek a special agreement whereby we can maintain our current contribution and involvement with this important organisation? Will she confirm that it is still the Government's position that, with regard to Europol, they will have to take into account the accountability to the Court of Justice of the European Union? If that is the case, that to me is regrettable political dogma.

The European arrest warrant has proved to be a very valuable tool at the disposal of all member states, as referred to by my noble friend Lord Anderson of Swansea and other noble Lords. It has ensured the arrest and swift return to the UK of individuals wanted for crimes committed here, and reciprocal arrangements through which we have been able to arrest people and return them to European Union countries where they are wanted for offences committed abroad. I have listed before the numerous cases where swift justice has been helped by our being part of the scheme. My noble friend Lord Soley raised the challenge we could face regarding the European arrest warrant and our status as a third country. Again, no one but the criminals will benefit. Can the Minister confirm that the Government are doing everything possible to ensure that we do not fall back to the pre-European arrest warrant arrangements?

Noble Lords will remember references to the Costa del Crime, with criminals wanted in relation to serious offences in the UK hiding in plain sight in Spain and other countries. We cannot allow a return to that situation. The only people this would benefit, as I said, are criminals and terrorists. It would hurt law-abiding citizens who want to see people brought to justice quickly.

I agree very much with the Government about the need for a comprehensive agreement on security matters as referred to by virtually all noble Lords, including the noble Lord, Lord Bilimoria. The committee is suggesting other options only because of its concern that we could otherwise leave ourselves exposed if no agreement is reached. I agree about the importance of continued data sharing; the Data Protection Act 2018, bringing us in line with the GDPR regulations, is very welcome and clearly means that we start from a position where we are aligned. I join with the committee in commending the contingency planning work done by

the Crown Prosecution Service, the Metropolitan Police, and the National Crime Agency and others in case the UK loses access to databases and other frameworks for security co-operation. But these organisations and the people working for them need to be better served by the politicians in charge of the process.

I agree with both the committee and the Government that dialogue is important in any future relationships regarding security matters. It is also important in the present arrangements but, today, we are able to have more formal engagement as well. It would be useful if the Minister could set out how the Government will seek to develop this new but inferior relationship.

The relationship between the United Kingdom and the Republic of Ireland is important in so many respects. Close co-operation between the police and security services needs to be handled carefully. Cross-border co-operation on the island of Ireland has led to people being brought to justice for crimes committed, and to security threats being effectively dealt with to keep our citizens safe. We must ensure we never go backwards on that.

Finally, I again thank the noble Lord, Lord Jay, for enabling this debate on the committee's report and I look forward to the Minister's response.

8.07 pm

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, as many noble Lords have alluded to this evening, a week is a long time in politics—and it is only Wednesday. As the noble Lord, Lord Jay, rightly pointed out, we are the calm and thoughtful end of Parliament, and the debate has absolutely reflected that this evening. I am grateful to all those who have spoken. I also take the opportunity to thank the EU Home Affairs Sub-Committee for producing this very good report, *Brexit: the Proposed UK-EU Security Treaty*. I am grateful for the variety of comments that were made and I echo the point made by the noble Lords, Lord Browne of Ladyton and Lord Kennedy of Southwark: we do not debate this topic nearly enough. It is the most important aspect of our exit from the EU and I totally agree with the noble Lords on that point.

The noble Lords, Lord West and Lord Kennedy, and the noble Baroness, Lady Massey, commented on the fantastic arrangements we have in our co-operation with the EU. I would go further and say that we have led the way in many of the arrangements that we now have. They are absolutely right to be concerned about what that change will mean. It is, in my job, the biggest concern that I have. It is our duty to deliver on the instruction from the British people to leave the European Union, and the best way to do that is obviously with a good deal.

One thing that we should note at the outset is that we are in the happy position of having a good degree of consensus across the political parties and across the two Houses, if not about anything else at least as to what we are looking to achieve from any exit deal from the EU. We all want to protect the operational capabilities that help the police, law enforcement and prosecutors to do their job of protecting the public and bringing criminals to justice. We believe that the UK and the

[BARONESS WILLIAMS OF TRAFFORD]

EU have a mutual interest in that outcome. The noble Lord, Lord Kennedy, talked about the Costa del Crime and clearly there is a mutual interest there, given the number of UK nationals who found—and indeed find—themselves there. We also have a good degree of consensus around what the most important operational capabilities are.

Notwithstanding the week's events, the report of the noble Lord's committee stands the test of time—I agree with his point on that—and it raises issues that we will inevitably have to answer as part of our exit. The Government of course agree with the committee's observation that protecting the safety of millions of UK and EU citizens must be the overriding objective. The committee has highlighted the importance of current security, law enforcement and criminal justice co-operation between the UK and the EU. We recognise that, and have said explicitly that the shared tools, measures and capabilities that have been developed over the last 40 years have been proven to save lives. While we accept that our relationship will change as a result of leaving the EU, the firm view of this Government is that working together through different structures should not be at the expense of protecting the public.

On the question of security co-operation during the implementation period, should we enter an implementation or transition period as provided for in the withdrawal agreement, the UK would continue to participate in the existing EU justice and home affairs tools and would also be able to choose to take part in any measures amending or updating them. The UK would no longer be an EU member state during the implementation period, as the noble Lord, Lord Jay, said. In response to one of the points made by the committee, we absolutely do not underestimate the impact of leaving the EU on the UK's role in EU institutions. Of course we recognise that relinquishing our membership will carry consequences. However, as set out in the withdrawal agreement, common rules would remain in place and representatives or experts from the UK would continue to participate in the meetings of EU agencies and bodies such as Europol, where the presence of the UK is necessary and in the interest of the Union, or where the discussion concerns Acts addressed to the UK and its citizens.

In the political declaration that was published alongside the withdrawal agreement, the UK reached a deal with the EU that would deliver the broadest and most comprehensive security relationship that the EU has ever had with another country. That would include a framework for our future internal security co-operation. All the operational capabilities on which we would wish to co-operate with the EU in future are within scope of that framework. The future relationship envisaged in the framework would enable us to continue to work closely together on law enforcement and criminal justice; keep people safe in the UK, across Europe and around the world by exchanging information on criminals and tackling terrorism, as noble Lords have said; ensure that we can investigate and prosecute those suspected of serious crime and terrorism; support international efforts to prevent money laundering and counterterrorist financing; and allow us to work together to combat new and evolving threats such as cybercrime.

The text agreed by the UK and the EU also references specific capabilities that we had already agreed should form part of that future relationship, including: the exchange of passenger name records so that we can continue disrupting criminal networks involved in terrorism, serious crime and modern slavery; the exchange of DNA, fingerprint and vehicle registration data, ensuring that law enforcement agencies can quickly investigate and prosecute criminals and terrorists; fast-track extradition to bring criminals to justice quickly wherever they have committed a crime; and continued co-operation with Europol and Eurojust. There is also a commitment to examine further areas of co-operation such as the exchange of information on missing and wanted persons and objects and on criminal records.

Overall, the text of the political declaration reflects a shared commitment on the part of the UK and the EU to a high level of future co-operation in relation to internal security. It is a positive first step that we must build on during the next phase of negotiations, turning those commitments into detailed legal text. When it comes to what that detailed legal text should look like, the noble Lord's committee took the view with regard to the form of our future agreement that the Government needed to show realism about what could be achieved in the timescale available—and he made that point this evening. The committee concluded that time is short, and that it would be preferable for the Government to seek a number of ad hoc security agreements rather than a single, comprehensive one. In their response, as he knows, the Government disagreed with that conclusion.

In our view, the capabilities developed by the EU and its member states are mutually reinforcing, from the initial stages of identification and investigation of a suspect through to arrest, prosecution and prisoner management. As the committee highlighted, there are synergies between different EU tools, with many working together to provide an integrated system to identify, pursue and prosecute criminals and terrorists. That is one reason why the Government consider that a piecemeal approach based on ad hoc agreements would have a more limited value than an overarching, comprehensive agreement on internal security. We also expect a comprehensive agreement of the kind that the Government have proposed to help ensure that we maintain a dynamic relationship in this area that can meet the evolving threats faced by the UK and the EU. In contrast, ad hoc agreements on individual capabilities would likely be static and frozen in time, even as technologies and threats change.

We are very clear on what will make for an efficient negotiation in the time available. The UK's proposals that were set out in last year's White Paper would allow co-operation to take place on the basis of existing EU measures, with negotiations focusing principally on the overarching provisions and safeguards in a comprehensive agreement. In our view, this would lead to a faster and more efficient negotiation than having to tackle the same issues over and over again in a collection of agreements on individual capabilities.

Lord West of Spithead: I am slightly confused. The Minister mentioned that this would be done in a piecemeal way and that that was slightly better. Now she

is talking about an overarching agreement. What are we actually going for, piecemeal or overarching?

Baroness Williams of Trafford: We are going for overarching. I think the point I made was that we disagreed over an ad hoc approach, and that moreover we wanted an overarching approach. I will just look at my notes to make sure that I am not contradicting myself; I hope I am not.

Lord Browne of Ladyton: My Lords, I am reluctant to intervene on the Minister—I think we are all conscious of the time—but I have been listening carefully to what she has said, and she seems to have represented the provisions of the political declaration as being agreed. I am not going to go through all its paragraphs but I have copied down three active verbs from three of them, and they are very important. One of them is “consider further”, one is,

“work together to identify the terms for the United Kingdom’s cooperation”,

and the third is “consider how”, and whether, “the United Kingdom could contribute”.

To me, that does not imply or state agreement on anything; it just says, “We can talk about these things”. They are all aspirational. Nothing is agreed and, set against Michel Barnier’s clear and specific speech in Vienna in June last year, it cannot be agreed. Some of the issues that the Minister has suggested can be agreed cannot legally be agreed by the EU because we are not part of the ecosystem.

Baroness Williams of Trafford: My Lords, I hope noble Lords will forgive me; I talked about the political agreement as it stands. I am talking about this at a certain point in time—with cognisance of what is happening in another place—so I am talking about the Government’s hopes and aspirations. We have conducted the debate so far in an utterly civilised manner, which is refreshing, so I hope that the noble Lord will accept this in that context.

Lord Soley: I am sorry to interrupt the Minister, but she needs to follow up on the “ad hoc” bit. In her answer to the point from the noble Lord, Lord Ricketts, I originally understood her to say that the Government were looking at an ad-hoc arrangement on the European arrest warrant, yet she now seems to be saying something different. Maybe she needs to take this away and come back on it. This is very important because the European arrest warrant is not something we can do quickly.

Baroness Williams of Trafford: If the noble Lord will indulge me, I will talk about the European arrest warrant when I answer points raised by noble Lords. Perhaps that will clarify it; if it does not, I will come back to noble Lords in writing.

The noble Lords, Lord Jay and Lord West, and my noble friend Lord Kirkhope all talked about data. I made the point earlier about the huge data flows that come from the UK across to the EU. I absolutely accept the point and share their view on the importance of continued data sharing following our withdrawal from the EU. The EU, with the UK and its member states, has established unrivalled mechanisms for the exchange of law enforcement data on a daily basis, as the noble Lord, Lord West, pointed out. Our operational

partners have made clear to this and other Select Committees how crucial this data is in our efforts to fight cross-border crime and prevent terrorism.

On the UK securing an agreement on data protection with the EU, we start from a position of trust in each other’s standards and regulatory alignment on data protection. The Data Protection Act 2018—which the noble Lord, Lord Kennedy, and I were involved in—and the adoption of the general data protection regulation strengthened UK data protection standards. I can quite safely say that we often surpass what is required of EU states. We were also one of the first countries to successfully implement the law enforcement directive. This provides a unique starting point for an extensive agreement on the exchange of personal data that builds on the existing adequacy framework. We believe that the EU’s adequacy framework provides the right starting point for the arrangements that the UK and the EU should agree on data protection, and the political declaration notes that the adequacy decision will form the basis of future data transfers between the UK and the EU. It also outlines that the Commission is committed to starting this assessment as soon as possible after exit day, with the intention to have a decision in place by the end of 2020; that commitment is relevant to the committee’s concerns about the sequencing of negotiations on data and security.

The committee and the noble Lord, Lord Jay, also reiterated the concern about the cliff edge and there being no mechanism in the draft withdrawal agreement for extending the implementation period. Both the UK and the EU agree that the implementation period has to be time limited, and the legal text sets an end date of 31 December 2020. However, the withdrawal agreement now also includes the possibility to extend the implementation period by mutual agreement of the parties. The committee highlighted the possibility of a security cliff edge, whether at the end of March or at the end of the implementation period. As the House would expect, the continued safety and security of both UK and EU citizens remains our top priority. This is why we are preparing for all eventualities, including the no-deal scenario that we are all seeking to avoid.

As part of our planning for such a scenario, we are preparing to move co-operation to alternative, non-EU mechanisms which we already use for co-operating with many non-EU countries. Broadly speaking, this would mean more use of Interpol, Council of Europe conventions and other forms of co-operation with European partners, such as bilateral channels. They are tried and tested avenues, so we are in a slightly different position in this area compared to those areas in which we are having to put in place new and unprecedented arrangements. We are none the less clear that these contingency arrangements will not be like-for-like replacements of the EU tools and would result in a reduction of mutual capability.

Lord Anderson of Swansea: My Lords—

Baroness Williams of Trafford: Will the noble Lord indulge me, as I am really running out of time? I have not said half of what I wanted to say. If the House will allow me to have a few additional minutes, I will write to noble Lords on any outstanding points.

[BARONESS WILLIAMS OF TRAFFORD]

The Government's White Paper outlined that our future security relationship should be underpinned by appropriate safeguards, including respect for human rights—which the noble Lords, Lord Anderson and Lord Kennedy, and the noble Baroness, Lady Ludford, spoke about—comprehensive data protection arrangements and robust, appropriate governance arrangements. The UK is committed to membership of the European Convention on Human Rights and we believe that an agreement should include a mutual commitment to individuals' rights. We are clear that we will remain party to the ECHR after leaving the EU. In line with this, the text of the political declaration recognises that appropriate reciprocal safeguards must be put in place to ensure that individual rights are protected and disputes can be effectively resolved. It is also clear that our future relationship must include an appropriate balance of rights and obligations; safeguards must be appropriate to the level of co-operation taking place.

I will now turn to some specific points raised; I will go over time. The noble Lord, Lord Jay, the noble Baroness, Lady Ludford, and others talked about there being no reference to SIS II or ECRIS in the political declaration. The noble Lord, Lord Bach, who talked about policing, raised concerns that the UK would be less safe without them. Under the terms of the withdrawal agreement, we will continue to use EU tools and data platforms, including SIS II and ECRIS, for the duration of the transition period. The political declaration text reflects that the UK and the EU have agreed to continue to exchange information on wanted or missing persons and objects and on criminal records, and that our future relationship should include capabilities which allow for that.

A number of noble Lords voiced their concerns about the European arrest warrant, and whether we will still be able to use it. Basically, the UK and the EU have agreed to establish arrangements enabling the UK and member states to surrender suspected and convicted persons efficiently and expeditiously. The political declaration also provides the basis for agreeing surrender arrangements, including streamlined procedures and time limits maximising the effectiveness of such arrangements. Both the UK and the EU recognise the importance of continued, close and effective operational co-operation on extradition. The legal vehicle through which co-operation in this and other areas will be delivered will be for the next phase of negotiations. I hope that answers the noble Baroness, Lady Massey, and the noble Lords, Lord Anderson, Lord Kennedy and Lord Jay.

The noble Lords, Lord Jay and Lord Kennedy, talked about security co-operation in Ireland and Northern Ireland and its historical importance. I totally agree with them on the importance of that. The comprehensive security partnership we are seeking with the EU will include the Republic of Ireland, ensuring that this important co-operation can continue.

The noble Lord, Lord Jay, and the noble Baroness, Lady Smith of Newnham, talked about the role of the CJEU after exit. The UK has said that, while it will be outside the direct jurisdiction of the CJEU, it is prepared to make commitments with respect to the CJEU as set

out in the White Paper. This is reflected in the political declaration, in which we have made it clear that the closer and deeper the partnership, the stronger the accompanying obligations.

The noble Lords, Lord Ricketts, Lord Soley, Lord Browne of Ladyton and Lord Bach, and the noble Baroness, Lady Smith of Newnham, talked about contingency planning. We are working intensively with operational partners to ensure we are ready and well placed to make best use of the alternative channels with EU member states. We are not complacent and will continue to work closely with them as we put those plans into action.

I am sorry to go back to the European arrest warrant, but the noble Lord, Lord Jay, asked about live cases. The requests we have made will be a matter for EU member states. The Home Office and our operational partners are engaging with our counterparts in EU member states to find out how they intend to handle live cases at the point we leave. Our overall objective in this area, shared by our counterparts in Europe, is to minimise disruption to operational work. The legislation is quite clear on incoming requests. Under the Extradition Act, if we make an arrest on an EAW the court proceedings have to continue under that part of the Extradition Act. In these cases as well, our overall aim will be to ensure that cases are handled without disruption.

I have run out of time. There are a number of questions that I have yet to address. This has been an excellent debate. I hope the other place has listened to the civilised way we have conducted ourselves. I will write to noble Lords fully on the questions I have not yet answered. I thank noble Lords for taking part in the debate.

8.32 pm

Lord Jay of Ewelme: I too thank noble Lords who have taken part in the debate. It has been a serious one on a serious subject. I am struck by the widespread view that the security aspects of Brexit, which really do matter to our citizens, have been underplayed, have not been given enough attention and need more attention, including from debates in this House, as the Minister said. Finally, I thank her for her calm, thoughtful, helpful and full reply.

Motion agreed.

Brexit: Consumer Protection (European Union Committee Report)

Motion to Take Note

8.33 pm

Moved by Baroness Kennedy of The Shaws

To move that this House takes note of the Report from the European Union Committee *Brexit: will consumers be protected? (9th Report, HL Paper 51)*.

Baroness Kennedy of The Shaws (Lab): My Lords, this report was prepared by the Justice Sub-Committee, which I chair, of the European Union Committee.

I thank the members and staff of the committee for their support and hard work. It really is an incredibly stimulating committee that works incredibly hard.

The European Union Committee of this House has done sterling work across the board. Its sub-committees have produced 40 different reports, and we have contributed quite a number. The idea of those reports was to inform Parliament and the public about issues arising from the decision to leave the European Union. I know that they have been valued in some quarters, but in others they have fallen on deaf ears. At times, the Government's responses have not treated them with the seriousness we would have liked.

The United Kingdom has been at the core of developing European Union consumer protections, pushing for high standards and strong rights to apply across the single market. We have been at the heart of this and sought that they be enforced throughout the European Union by a court order made in any member state. That means that if you have an issue with a faulty purchased item, you can get an order in your local court in Croydon, for example, and it will become enforceable across Europe. United Kingdom consumers have benefited from this strong regime of standards and redress. When making purchases in the UK, cross-border purchases or when visiting other EU countries for work or holidays, if something goes wrong there can be restitution, compensation or enforcement, as set out in our report. UK companies have said that they have benefited by being able to trade across the European Union with customers who can be confident that the system is consistent and dependable.

EU-wide consumer rights are based on cross-border co-operation between consumer protection organisations, and in the development of this area of law. We are fearful that this will be lost. The UK will be leaving that infrastructure, those mechanisms and those forms of co-operation, whether we have some cobbled together new deal or there is no deal.

Our inquiry, which reported in December 2017, looked into what might be lost by leaving those systems of co-operation, and asked what could be done in order for the UK to continue to participate. In this we were greatly assisted by evidence from consumer advisory bodies and regulators, which I would like to thank for sharing their expertise and advice.

On the one hand, many purchases by UK consumers are made in the UK, and the UK could decide to maintain high standards of consumer protection for domestic purchases; that goes without saying. Indeed, our report tentatively welcomed the EU withdrawal Bill—now an Act—as a means of mirroring in UK domestic law the individual consumer rights introduced by EU legislation, so we are at least able to welcome that formally into our own law.

On the other hand, there is great uncertainty about purchases made from the EU or made in the EU by UK-based consumers travelling in the remaining member states. Our witnesses told us of the loss to consumers, across all sectors of the economy, if the UK does not continue to participate in the EU co-operation mechanisms. They told us of the challenges of participating as a third country outside the EU. That is particularly true if the UK insists on being beyond the jurisdiction of the European Court of

Justice, which was one of the red lines. The European Court is the final arbiter for interpreting the rules we have made together. Our report pointed out that the EU withdrawal Act,

“cannot ensure the protection of UK consumers' rights when they visit the EU 27 post-withdrawal. Nor can it guarantee the UK's continued access to the EU's shared network of agencies, mechanisms and infrastructure that police, secure, develop and underpin consumer rights across the Single Market”.

So we are going to be outside of that body of agencies and mechanisms.

When we heard evidence from Margot James MP, the former Minister for Small Business, Consumers and Corporate Responsibility, she reiterated the Government's aspiration for,

“a deep and special relationship with the EU post-Brexit”.

But she provided no detail on how to overcome the challenges we were describing to her, and in no way helped us to understand how we would participate in these consumer protection arrangements.

The Prime Minister's deal gave us little comfort, and a no-deal outcome would tear up the rule book. So our report concluded that,

“it is important that the UK's access to the European Union network should be maintained post-Brexit”,

but questioned whether the Government had given any thought to how they might address the problems. We called on the Government to produce a clear plan addressing these problems as a matter of urgency—how to be part of that infrastructure of agencies and mechanisms.

The Government's response to our report, received in February 2018, was pretty pathetic. In his covering letter, the then Minister, Andrew Griffiths, thanked the committee for its interest in this “important area” and its,

“thoughtful analysis of the issues”.

He pledged that from the day the UK leaves the EU, the Government will remain,

“committed to maintaining high standards of consumer protection, delivering the stability and continuity consumers need to continue to make purchases”.

He added that in its negotiations with the EU 27, the Government's objective was to retain,

“effective protections in place for consumers purchasing goods and services across borders”.

He expressed this as an intention that they would co-operate closely.

While the committee and the Government agree that the UK's strong history of championing consumer rights can continue after we leave the EU, and while we agree on the benefits of cross-border co-operation, the Government's response was vacuous. It lacked detail on how to address the significant issues at the heart of our report; it failed to address the loss of the reciprocal relationships, institutions and infrastructure that underpin and develop consumer protection policy; and it suggested no potential replacements for any of that, so it was really blather. We are hoping to hear something more solid from the Minister tonight.

The Minister who replied to us assured us that the Government had given “substantial thought” to these issues, had considered,

“in depth, a wide range of options”,

[BARONESS KENNEDY OF THE SHAWs]
and was,

“continuing to undertake detailed work on this”.

That was a year ago. But the response did not engage in the detail of our concerns, nor with any of our proposed solutions. Either they were ignored or the Government gave vague aspirations but felt unable to share any detail, because these matters remained subject to the Brexit negotiations. We were told that it was all part of that great whispering thing—that they could not give anything away because they were negotiating.

Even on matters fully within the UK’s remit, the Government’s response to our report lacked a clear plan. For example, on the issue of increased pressure on national regulators, there was a vague aspiration to work closely with the Competition and Markets Authority, “to ensure it is appropriately resourced for any new responsibilities after the UK leaves the EU”,

but there was no detail on those resources or responsibilities. Similarly, the Government maintained its view that the issue of increased pressure on trading standards bodies remains a matter for local authorities, stating that they must remain,

“responsible for their own finances and recruitment, and accountable to their local electorate”.

So it is all down to the local authorities, despite the fact that, as we all know, their central funding has been savagely cut, they are having difficulty funding most of the things they do and they are certainly likely to find this difficult to fund.

At the moment of receiving that response we had 13 months to go, so we lived in hope. In July 2018, our hopes soared: the Government published Command Paper 9593, setting out their “ambitious” plan for post-Brexit relations with the European Union. Three paragraphs of that paper dealt with consumer protection. The Government noted that the UK had a “strong track record” in protecting consumers and repeated their commitment to “maintaining high standards”. The paper concluded:

“There should be cooperation on enforcement, including provisions to allow mutual exchange of information and evidence, and a framework to work collectively”,

on wider consumer issues. But again, when there were eight months to go, there was hardly a detail included in that Command Paper on how this co-operation would be achieved. There was an absence of anything concrete; it was enough to make one weep.

In November last year, the withdrawal agreement and the political declaration were published and presented to Parliament, and the European Union Select Committee published its report on them on 5 December. As a result of yesterday’s vote, we are into uncharted constitutional waters but let us for now continue to consider that some kind of deal is still an option. Whatever is to be concocted in a new withdrawal agreement, one hopes it might mean that consumer protection will be involved. During the transition period, the UK would retain all the responsibilities of EU membership—such as conforming to EU law on consumer protection—but without the related institutional privileges; for example, membership of the EU’s institutions and agencies that set and enforce consumer protection rules.

However, Article 128 of the withdrawal agreement allows for the UK to be involved, to some extent, with EU initiatives and agencies. My questions for the Minister here are: what protections would UK consumers have under the arrangements in the withdrawal agreement? Will there be obligations on the UK relating to EU consumer protection rules? What would Article 128 mean in practice for the UK’s involvement in EU agencies? I would be delighted to hear a reply on these matters from the Minister. Can he also explain, with regard to the Irish backstop and the requirement that if it is used the UK will have to maintain a level playing field across a range of EU policies covering state aid and competition, why consumer protection was not included?

We all understand that the Prime Minister is going to go off and speak to other parties, possibly to find some kind of resolution with them which will make for greater numbers supporting a deal in the Commons. If there is a new or amended withdrawal agreement, we can assume that the political declaration will remain as it is, linked to that withdrawal agreement. I imagine that that might not in itself be changed. I want to ask about the political declaration because, as has been mentioned in other debates today, it is so full of aspiration and so lacking in anything solid.

The political declaration addresses consumer protections in, I suggest, an inadequate way. It deals with their relevance with regard to specific sectors of the economy, including financial services, digital matters, aviation and road transport. My questions are: what protections will the Government seek for UK consumers, including redress mechanisms through courts? What obligations would the Government be willing to have relating to EU consumer protection rules? What access will they seek to negotiate with the EU agencies that set and enforce the rules? British consumer organisations want to be party to those.

Finally, I turn to the rather ghastly prospect of the UK departing without a deal, which would be so detrimental to this whole area of consumer protections. We know already that the way to get a trade deal is to lower your standards; that is what places such as the United States of America will expect. All over the place, it will be expected that we will lower standards to secure trading deals. I am afraid that many of us are anxious as to whether we will go that far to cut the deals that might be necessary if our economy is suffering as a consequence of taking that dire step.

The Government argue that:

“UK consumers should not see any immediate differences in protection between UK law and that of EU Member States as UK and EU law is highly aligned”.

In that regard, we and the European Union may remain aligned for quite some time. However, the Government acknowledge our concerns about purchases in or from the EU, saying that,

“there may be an impact on the extent to which UK consumers are protected when buying goods and services in the remaining Member States”.

There is an admission that if there is no deal our protections are likely to be lowered.

I see that my time is up. The other question here is: what will we have to do about courts? Will UK traders and consumers have to go off and enforce judgments

and have to go to courts in the other parts of the European Union, rather than seeking redress in our own courts? I would like to hear what the Minister has to say on that.

In conclusion, we find that consumer protections—which are vital and in which we have played a crucial part—should be a source of concern to us at this time, when we are talking about the possibility of no deal. Certainly, while we are in this process of putting together some sort of deal, if one can be achieved, this is an area where we should be sticking to our guns and trying to get something more solid than the vague aspirational commitments that stand. I beg to move.

8.50 pm

Baroness Burt of Solihull (LD): My Lords, we are here to take note of the European Union Committee report on the effect on consumer protection of withdrawal from the European Union, and I certainly commend the committee and the noble Baroness, Lady Kennedy of The Shaws, for undertaking this very important work. I was not a member of the committee, so I am extremely grateful for the clear and very interesting account that she gave of what happened on it.

The report tries to be positive, but I sincerely doubt whether any situation that we try to construct for ourselves from outside the EU to protect consumers will ever measure up to the protection that our own consumers—and EU consumers—currently enjoy through the complex and intertwined relationships that have developed to protect them over the past 50 years.

However, paragraph 20 of the report makes the point that our national law often provides for a higher degree of protection than the EU. That is true, and I truly hope that we will continue to be leaders in the field of consumer protection policy. But, since the interaction that we will have with our hitherto European partners will be so severely diminished, opportunities to learn from each other and create legislation to more effectively protect consumers will be severely limited. Consumers in the EU and the UK will be the poorer.

However, the government response to this is that existing consumer protections that are based on EU law in the UK will be retained. That will be fine when UK customers buy from UK-based traders—and ONS figures tell us that 82% of UK online purchases come from the UK-based companies. But, of course, if we are buying from EU-based companies—or EU citizens buy from UK-based companies—the situation will be different and protections will not be the same, particularly ongoing.

In paragraph 60 of the report, the Government is requested to address specifically the rights of UK citizens who visit EU 27 countries post Brexit. In their response I am unable to see anything that is particularly clear or helpful, other than the fact that they are working on it. I ask the Minister: have I got this wrong? If I have not, can he confirm when we will know what protections UK consumers visiting the EU 27 will enjoy?

A key issue raised by the report concerns how the Government are going to maintain access to the cross-co-operation mechanisms that facilitate the protection of European consumers. The noble Baroness, Lady Hayter, referred to this in the statutory instrument that she, the

Minister and I took part in last night, on preparing the UK law in the event of a no-deal Brexit. She said that the Government had ended,

“the requirement on our enforcement bodies to help other EU states in the interest of their consumers. They have made it voluntary rather than a requirement. That was never necessary”.—
[*Official Report*, 15/1/19; col. 208.]

Can the Minister explain why this step was taken? If consumers on both sides benefit, what would be the reasoning for discontinuing it?

In paragraph 84 of the report, grave concern was raised by the Select Committee about the clear evidence that national regulatory and trading standards bodies are already struggling to fulfil their important roles because of financial constraints, even before the additional complications and challenges of Brexit. The noble Baroness, Lady Kennedy, has already mentioned this. All the work that our consumer protection bodies do needs to be properly funded. If it is not being sufficiently funded now, what hope is there for protecting the needs of consumers in the future?

Finally, in the Government’s response to this question and others, they say that,

“the Government is fully committed to securing the ... best possible deal for consumers”.

Surely the best possible deal is the deal that we have now.

8.56 pm

Lord Cashman (Lab): My Lords, I welcome this report from the sub-committee on which I serve and take this opportunity to congratulate my noble friend Lady Kennedy of The Shaws, who eloquently introduced the report and who chairs our sub-committee so effectively. She has so extensively covered the report that I might best serve your Lordships’ House by sitting down and saying nothing. However—there is always a “however”—I want to take a slightly different point of view.

The report highlights widely shared concerns regarding the Government’s Brexit negotiations and their impact on our ability to maintain protections and standards in consumer policy both within the EU 27 and in the United Kingdom when we are outside. I am among those Members of your Lordships’ House who have deep concerns about the kind of country that we will become once we leave the European Union and the potentially negative effect on the rights that we currently enjoy and, worryingly, take for granted. In other debates, I have expressed my concern about the abolition of the Charter of Fundamental Rights. Despite verbal reassurances from the Government, my concern remains, and not only on consumer rights and protections. The response from the Government to this report has not reassured me.

Since we joined the European project in 1973, the institutions of the European Union have agreed a wide range of legislation dealing with consumer protection rights. That legislation is woven into member states’ national law. This EU-wide approach does two things: it sets minimum standards for consumer contracts and performs a similar task for specific areas of the economy, as outlined in our report. There is a wide range of regulations and directives—I know this from having served in the European Parliament for 15 years—on consumer rights, on unfair business-to-consumer commercial practices, on the sale of consumer goods

[LORD CASHMAN]

and associated guarantees, and the directive on unfair contract terms in consumer contracts. There are other important measures: the travel regulation on common rules in the field of civil aviation security, the directive on package travel, package holidays and package tours, and the welcome and much-used regulation establishing rules on compensation and assistance to passengers in the event of denied boarding and cancellation or long delays.

I could then refer to financial services directives, energy directives, energy efficiency and product labelling. I could go on, but my point is that, through EU-wide co-operation and with our influence in the European Union, we have seen grow a raft of measures which ensure that consumer protection, product standardisation and health and safety, as well as other rights, are at the heart of the internal market.

Time and again in our hearings witnesses emphasised the role played, as my noble friend Lady Kennedy outlined, by the United Kingdom in shaping these rules, not least by those UK Members of the European Parliament who, unlike UKIP Members of the European Parliament, turned up and worked within the parliamentary process by amending, shaping and improving legislation rather than merely trying to obstruct it. It is undeniable that we have helped to shape, protect and promote consumer rights and responsibilities within the biggest single market in the world, a single market which the Government now want to walk away from, yet could remain within even with Brexit, enforcing the conditionality of freedom of movement. The only certainty we have at the moment is that there will be serious repercussions for consumers and businesses in the United Kingdom, and I have not been reassured by the Government otherwise.

In conclusion, I cannot overstate, as my noble friend Lady Kennedy also stated, the importance of the EU agencies: aviation, medicines and food safety, to name three. Many witnesses emphasised the importance of these agencies, networks and infrastructure, largely created by EU law and which work on a reciprocal basis. Development policy and information sharing are essential means of protecting and enforcing consumer rights. These rights must not be diminished nor diluted. They must be built upon and protected and we must work with others to ensure that these rights are respected if or when we leave the European Union.

9.01 pm

Lord Bilimoria (CB): My Lords, the noble Baroness, Lady Kennedy, said that this is about standards and redress, about compensation and an enforcement system that is dependable, about consumer protection, and about four and a half decades of partnership and co-operation. I thank the noble Baroness and her committee for this report, *Brexit: Will Consumers be Protected?*. It starts right up front by highlighting the Government's platitudes:

"This report highlights our concerns about the Government's approach to the negotiation of the UK's post-Brexit participation in the important areas of EU cooperation that help protect consumers' rights. Beyond advocating a deep and special relationship with the EU post-Brexit, the Minister was unable to provide us with any detail as to how the Government might secure, post-Brexit,

the UK's access to a range of cross-border mechanisms and infrastructure that facilitate and encourage cooperation between the various national bodies responsible for protecting consumers".

The withdrawal Bill is 600 pages long and covers three areas: the backstop; the £30 billion; and citizens' rights. Then there are 26 pages of a wish list: the political declaration. The report says very clearly that over the last 40 years the,

"EU's consumer protection acquis ... has grown to encompass around 90 European Directives that apply across the Single Market. The rights enshrined in these Directives enable consumers to seek redress for any poor service they receive ... at home or in another EU Member State".

The withdrawal Bill tries to mirror everything but it cannot. EU law is not static. If we leave the European Union, it will change and then we will diverge. The Government need to reassure us very clearly about this. Chris Woolard, executive director of strategy and competition at the FCA, said that the landscape between the EU and its member states in this context is "complex and interconnected".

References to consumer protection are scattered throughout the EU treaties. As a result of the interaction, the consumer protection acquis and other UK law is interwoven in this complex, interconnected fashion. Citizens' legal protections are strengthened by a harmonised system of consumer protection. While the many items of EU law provide the basis for consumer protection in the UK, our national law quite often offers an even higher degree of protection. So we talk about EU bureaucracy, but we use the EU bureaucracy and we do more: we use the law for our benefit. The Government produced all these papers about consumer rights and protection after Brexit and said that if there is a no-deal situation:

"If you have a dispute with a business based in the EU after ... 29 March 2019, it is less likely that you will be able to use the UK courts to try to put things right".

So as a consumer you will be worse off. The European Parliament, in its advice, *Consequences of Brexit in the Area of Consumer Protection*, talks about the EEA model, saying:

"From the perspective of consumers in the EU28, an EEA membership of the UK is the most favourable Brexit scenario. It would ensure the application of the high European consumer protection standards for consumers in the EU27 and in the UK to a very large extent".

But, as I have always said, the EEA is the least worst option. When it comes to the WTO, the EU says that it will be a disaster.

Which? magazine managing director Alex Neill said that a no-deal Brexit could mean,

"a bonfire of consumer rights and protections",

be that for booking package tours or free roaming. When you come to return goods purchased from the EU, it will be more difficult. You will not be able to use the small claims court after a no-deal Brexit. The ECAA allows UK airlines to operate freely in Europe; if the UK drops out, consumers may face less choice and higher prices. You will no longer be able to insist that timeshare contracts be in English. A no-deal Brexit could see consumers hit with higher credit card surcharges and slower payments for European goods.

Paying in euros might take longer. We may not be able to use online dispute resolution any more. I could go on.

Whichever way we look at it, these laws are intertwined—even the Bar Council has said it. It will be very difficult to protect the consumer if we break away from these laws. If we do not have the passporting rights, what about consumer lending? That is in jeopardy as well.

To conclude, this whole area of consumer protection shows once again how much we as a country have taken for granted as members of the European Union. By leaving, we will lose out. British consumers will lose out. It shows, once again, that in 2016 people voted to leave by a very narrow margin of 52% to 48%, with four months' notice to learn about things so complicated that they covered 40 years of our membership of Europe. Three years later so much has transpired—let alone what happened yesterday. Now we know the facts. Now we know that, in an area such as consumer protection, once people know the reality—including what we have learned today—what they are going to lose out on and that no deal is not an option, the only fair, democratic way out of this deadlock, including for the 2 million youngsters, including two of my children, who were not old enough to vote in 2016 but who are now, is to go back to the people and give them a say as to whether they want to leave the European Union or remain in it.

9.07 pm

Lord Judd (Lab): My Lords, as a Member of the committee I thank the noble Baroness, Lady Kennedy of The Shaws, for the report and the way in which she introduced it. Hers is a good committee to belong to. I have been on a number in my life, but never on one in which it is possible to enjoy the proceedings so much. It is a very lively committee. We have a chair who understands leadership; she certainly has views, but she knows how to listen, and the art of leadership is to listen and bring people together. What is remarkable about this group is that we are a group together, and I unashamedly take this opportunity to say thank you to the noble Baroness.

I also thank all the witnesses; reports depend very much upon their quality, and we have had some first-class discussions with witnesses, not least in this field. We are also served by outstanding staff and legal advisers, who sometimes have to be tolerant of our idiosyncratic ways of handling things in our committee, but who fit in well and are very effective. Again, they have my real appreciation.

A great deal of sadness is brought out in this report, as has been emphasised in other spheres—not least security, which we have just been discussing. British leadership has been critical to the evolution of what is working very satisfactorily and well in Europe. To see so much positive and dedicated work by British people in the evolution of European policy being cast aside is certainly a matter of sadness.

It is clear that, whatever transpires, co-operation will remain essential. It cannot produce results as effective as the integrated approach which has emerged, but it will be essential. With the greatest possible respect to the Minister, we have not seen any convincing

evidence at all about what the specific lines of co-operation will be and the kind of direction the Government will be giving in that context.

Similarly, the regulation has worked well. Among a lot of consumer organisations in this country there is a great deal of respect for the regulation and how it has emerged and is working. We will need to have new forms of regulation, and of course they will not be as complete or as effective as what we have had in place. We are still very unclear about what will be the protection for UK consumers when they are working, living or holidaying in Europe, or what will be the position of businesses.

It is a sad experience to have to consider a report of this kind, when we are seeing so much of something which is so central to life and the well-being and smooth operation of society as this area is being jeopardised without yet any clear indication of what we will have. I find it exasperating that there is no clear evidence of how we can begin to think we will better serve the British people outside Europe than within it.

9.12 pm

The Earl of Kinnoull (CB): My Lords, it is a great pleasure once again to follow the noble Lord, Lord Judd, who spoke with his typical wisdom. He is the conscience of our sub-committee, and we value him enormously. I declare my interests as set out in the register of the House, in particular those in respect of consumer financial services.

I will also begin by adding my tribute to our staff. The Justice Sub-Committee staff are especially hard-worked, because they are also the legal resource for the main Select Committee and all the other sub-committees as well. We have now published, as a whole structure, 38 unanimous reports, which are of a very high quality, and this report was no exception. I add my warm congratulations to our energetic chair, the noble Baroness, Lady Kennedy of The Shaws, who made an excellent speech. Writing a speech is like writing an essay, is it not? It is jolly hard to write a short one that is nice and clear, and hers certainly was clear and short.

Consumer protection has two main elements: efforts to protect the consumer before they buy the goods or services, and efforts to give the consumer access to remedies when things have gone wrong after they have bought them. I will confine myself to three important matters on which I ask the Minister for an update.

The first is about the European Committee for Standardisation—CEN—and its electrical sister, CENELEC. These bodies are not EU bodies but European bodies, and are well tried and tested committee structures that bring together the national standards for safety and quality in 34 countries today. The post-Brexit problem is set out in paragraphs 33 to 35 of our report and lies in the fact that CEN and CENELEC's eligibility for membership is currently limited to,

“an EU Member, an accession country or an EFTA country”.

The rules were not written with a Brexit in mind.

Witnesses told us, and we agreed, that it was vital that the UK got the eligibility criteria altered so that the UK retained its membership. At paragraph 41, we recommended that the Government support the British

[THE EARL OF KINNOULL]

Standards Institute's efforts to achieve British membership post Brexit. The Government's response essentially said that that was the BSI's problem alone, but that they would remain "in close contact" with it. I need hardly say that we found that disappointingly lukewarm and not at all in the spirit of the Government's many commitments to maintaining consumer protection at the commendably high levels that the UK enjoys.

The White Paper on the future relationship did not cast any further light on the situation, nor did the political declaration, both documents being drafted at a rather higher level. I ask the Minister for an update on where we are with CEN and CENELEC.

My second point concerns the consumer protection co-operation regulation. The CPC regulation provides the mechanism for the exchange of information between national enforcement bodies, such as the CMA and, where necessary, empowers them to bring legal action to enforce consumer protection laws. Starting in 2016, the Commission sought to develop and modernise the CPC mechanisms for co-operation. Importantly, the new regulation, which has since emerged, encourages co-operation with non-EU member states.

At paragraph 75, we urged the Government to engage with that aspect. In their response, the Government said:

"The UK has worked with the European Council to agree an ambitious new CPC regulation which strengthens cross-border cooperation and enforcement for the new digital environment. We are pleased that progress was made to agree this file by the end of 2017".

That was all good news, and the new regulation will come into force in 2020, but did not answer our point at paragraph 75, which was that the Government should,

"make every effort to engage the provision in the reformed Regulation ... that encourages cooperation with non-EU Member States".

There is no help in the political declaration on this matter, so can the Minister update us on whether the Government are planning to co-operate as a non-member state post Brexit, per the reformed CPC regulation and, assuming that that is the case, what they have done about it so far?

My final area of concern is the mutual recognition of judgments and civil justice co-operation generally. When things have gone wrong for a consumer, they need to be able to rely on the court system. This is highly important for consumers buying goods or services in the EU today, as others have observed. It helps to provide that vital confidence that underpins international trade, which in turn drives prosperity. Today, a British consumer can go to a British court with a problem, obtain a judgment and have it enforced in any EU country. I do not mind repeating that, because it is vital.

As I have already observed, the Government have often stated their commitment to consumer protection in the Brexit process. Indeed, they published their framework proposal on this area in June last year, and more detail was contained in the White Paper of July, which stated:

"The UK is therefore keen to explore a new bilateral agreement with the EU, which would cover a coherent package of rules on jurisdiction, choice of jurisdiction, applicable law, and recognition and enforcement of judgements",

and that the UK will therefore seek to participate in the Lugano convention after exit.

However, in their paper *Consumer Rights If There's No Brexit Deal* of October last year, the Government warned:

"UK consumers will also no longer be able to use the UK courts effectively to seek redress from EU based traders, and if a UK court does make a judgement, the enforcement of that judgement will be more difficult as we will no longer be part of the EU. In addition, there will no longer be reciprocal obligations on the UK or EU Member States to investigate breaches of consumer laws or take forward enforcement actions."

In the current situation, it is of course impossible to be sure where we will end up, or indeed when, but we can plan and take out at least some insurance that would help in several of the potential outcomes.

The Lugano convention concerns the recognition and enforcement of judgments and covers the EU, Switzerland, Norway and Iceland. Were we to leave the EU, early accession to that convention would certainly form part of the "coherent package of rules" mentioned in the White Paper, but importantly our accession to it would need the consent not just of the EU but of Switzerland, Norway and Iceland. Accordingly, making progress early is extremely important. I have asked some Written Questions of the noble and learned Lord, Lord Keen, who responded in October, saying that there had been some limited progress. I therefore close by asking the Minister to update us further on the Lugano convention position.

9.20 pm

Lord Anderson of Swansea (Lab): My Lords, the report is headed *Brexit: Will Consumers be Protected?* This invites the response that of course they will, but the key question was posed by my noble friend Lord Judd: will they be protected as effectively as at present? Many of the concerns expressed today were also reflected in the debate we have just had on security. I have one general point and a number of subsidiary points.

First, I echo the comments of many colleagues. It has been a privilege to serve on a sub-committee so ably chaired by my noble friend Lady Kennedy, who has led a very happy committee in an exemplary way. On Brexit, as a committee we have dealt with a number of issues. Apart from consumer protection, we have dealt with intellectual property and dispute resolution post Brexit. The common feature of these three recent inquiries is that all have a major impact on UK consumers. None played any serious role in the referendum campaign. None, initially at least, received any serious attention from the Government. Virtually all the witnesses who appeared before us were content that the status quo was the best practically available and that what we were doing effectively was trying to limit the damage to the interests of the public. One feature of the committee, which I noted when I had the privilege of chairing the Foreign Affairs Committee in the other place, was that sometimes the evidence given was important in itself, in that it was conveyed to Government and led to certain concessions or changes in government policy. I hope I was right in detecting a certain difference in tone from the Government as we proceeded.

This debate is welcome but has been delayed considerably. After all, our report was published in December 2017 and the Government's reply was in

February last year, so the passage of time may have had at least some effect. The point has been made about the way in which the Minister tried to pass responsibility for trade standards totally to local authorities, failing to mention the resource problem of local authorities. However, she did hint that,

“we might seek to improve the resourcing available to consumer enforcement prior to Brexit”.

Has any decision been made to follow this up? What has happened?

The network of arrangements for consultation and co-operation that has been developed over the years was mentioned by all the witnesses. For example, the chief executive of the Chartered Trading Standards Institute said that,

“a lot of consumer protection is based on relationships with colleagues”.

Clearly these sort of relationships, often informal, are of great importance in the exchange of good practice and information. Surely the danger is that such important informal relationships will atrophy unless provided for in new arrangements. What proposal do the Government have? I concede that many of the bodies are not confined to the European Union, but many are.

I turn now to the fact that, even if there is little immediate effect on consumers, particularly given that the withdrawal Bill converts the body of existing EU law into domestic law, there will certainly be a change over time. As the noble Lord, Lord Bilimoria, said, the situation is not static. It is a dynamic situation and, over time, the law will be added to and refined, new case law will be developed and our ability to influence the law will be much reduced. As outsiders, clearly we will not be in the driving seat, whatever form of association we develop. What structures do the Government envisage to mitigate the difficulties I have mentioned?

These problems will be particularly acute if there is no deal. The Government conceded the problem in respect of no deal in the several working documents mentioned. For example, they said that, if we leave without a deal,

“there may be an impact on the extent to which UK consumers are protected when buying goods and services in the remaining Member States”.

They warned that:

“UK consumers will ... no longer be able to use the UK courts effectively to seek redress from EU based traders”.

The Government concede the adverse effects.

The point I am seeking to make about the consumer protection co-operation regulation has been well made by the noble Earl, Lord Kinnoull, and I adopt what he said on that.

The final paragraph of our report invites the Government to, as a matter of urgency, produce a clear plan on how the CMA and national regulators can collaborate with their counterparts in Europe. Over a year later, I see no plan. Can we envisage such a plan?

9.26 pm

Baroness Hayter of Kentish Town (Lab): My Lords, I too thank and pay tribute to my noble friend Lady Kennedy for her committee’s report and for opening today’s debate. It has been a little unnerving, as it has exposed both the scale of the problems likely to be faced by consumers—even with a deal, let alone after a crash-out—and the paucity of the Government’s response; “platitudes” was the word used by the noble Lord, Lord Bilimoria.

I start with my regret about how the Government have disregarded consumers over the past two years, failing to engage properly with consumer bodies and representatives. I am sure that the Minister has been briefed that, as early as 13 February 2017, I had cause to write to his predecessor at the department, the noble Lord, Lord Prior, about the lack of meetings on Brexit with consumer representatives. Given that lack of engagement, on 22 March 2017, the chief executives of Citizens Advice and Which?, together with Martin Lewis of MoneySavingExpert.com, wrote to the Prime Minister stressing the importance of consumers to the economy and calling for a,

“cross-Government high-level working group focused solely on securing the best possible deal for UK consumers”.

Sadly, that never happened—and, despite my umpteen Written Questions, there has been no improvement.

Indeed, the last letter I had from the noble Lord, Lord Callanan, on 13 November, supposedly set out Ministers’ meetings with consumer groups. But when I looked, I saw that the list of 27 included discussions with the FCA, Ofcom, the BSI and some finance companies, as well as meetings with the CAB unrelated to Brexit. That is a poor record. In fact, there has been precious little involvement throughout the process, which is probably partly why the problems outlined today have been allowed to fester.

It is hard to know where to start, so great is the impact of leaving the EU on consumers, where, as we have heard this evening, the raising of standards and their effective enforcement have helped protect British consumers. Just as we can buy goods made in the EU, confident in the knowledge that they meet recognised standards, so too can our enforcement bodies—the CMA, trading standards and the police—share intelligence with equivalent bodies across the EU, while court judgments here can be enforced there and vice versa.

As we heard from the noble Baroness, Lady Burt, we touched on consumer rights enforcement last night. However, we did not mention that the local enforcement bodies—trading standards—have been halved since 2010, as the noble Baroness, Lady Burt, and my noble friend Lady Kennedy noted. CTSI warns us that it will be exactly those front-line trading standards which will have to unpick the uncertainties after exit and of course will have to carry out far more checks once we can no longer rely on safe products arriving from the EU. So will the Government now provide trading standards with the resources they need, as pressed by my noble friend Lord Anderson? Will they take steps to ensure that our enforcement agencies can continue participating in those EU consumer networks?

[BARONESS HAYTER OF KENTISH TOWN]

Half of the dodgy non-food products reported to RAPEX—the EU rapid alert system—concern motor vehicles. This is clearly serious, as enforcing standards is essential for road safety. However, the Government have not been clear on how they will ensure that cars do meet standards, given that eight out of 10 imported cars are from the EU. REACH, RAPEX and ANEC all facilitate data sharing, policy formation and enforcement. Loss of UK membership—and indeed, leadership, as my noble friend Lord Judd said—of these bodies will be drastic. It would be particularly sad in the case of ANEC, which represents consumers to the standard-setting bodies CEN and CENELEC—a point raised by the noble Earl, Lord Kinnoull. The chair of ANEC is a British consumer champion, Arnold Pindar, and it will be sad for ANEC as well as ourselves if the UK no longer participates. I have of course written and asked questions of Ministers about any ongoing role for the UK on ANEC—but they have gone unanswered.

Products will obviously pose a risk but so, too, will food safety. There is an immediate threat to food prices in the case of no deal, because tariffs will be imposed and a third of our food comes from the EU. There is also a threat to food safety, because outside of the European Food Standards Agency there will be reduced intelligence sharing and joint safety assessments. As I warned last night, the inane proposal that we just wave through lorries at entry ports in order to avoid road congestion is simply an open invitation for out-of-time or improperly labelled food products. So perhaps there will be more horsemeat in our lasagne and, if Mr Fox gets his beloved US trade deal, we can look forward to chlorinated chicken.

However, it is not only food that will be more expensive, as Which? has warned. In a no-deal exit, tariffs will be imposed on a range of goods, adding pressure to families already struggling with the cost of living.

While the focus of what we looked at was obviously consumers in the UK, the challenge of a no-deal exit for foreign travel will be enormous, let alone for the 1 million Brits already living in the EU who might suddenly find that they will need to take a driving test to get a Spanish or French driving licence once ours is no longer recognised beyond a holiday stay. Holidaymakers may need to revert to the old green card proof of insurance—which I think all of us in the House are old enough to remember—if driving abroad. We might also lose compensation for cancellations and delays.

I first wrote to the noble Baroness, Lady Sugg, on 5 February last year about whether UK citizens on an EU airline from a third country, or a UK citizen on a UK airline from a third country to an EU state, would still be covered by EU consumer rights legislation. Sadly, I have received no satisfactory reply and, since then, the threat of no deal has made compensation for any delays to or from the EU even less likely. Therefore, will the Minister set out the current position on this in the case of no deal?

As serious for travellers is that with no deal we will lose the EHIC, the European Health Insurance Card. Not only will that mean that our easy access to medical

treatment will be at risk; older consumers—again, looking around the House—or those with pre-existing medical conditions will face real challenges in getting health insurance for travel in the EU. Can the Minister set out the Government's plans to ensure that holidaymakers will still be fully covered across the EU in the case of no deal?

The UKECC, which everyone in this House will know stands for the UK European Consumer Centre, handles 16,000 cases a year and is partly funded by the European Union's consumer programme. Perhaps the Minister can confirm the arrangements that his department is making to continue its role after March.

The Government's own no-deal consumer rights paper fails to outline how consumer rights will be affected when buying from EU businesses. Indeed, there is a woeful lack of detail on how rights will be impacted, especially as the redress schemes will disappear. In fact, I maintain that UK consumers will simply have far less protection. It would perhaps have been a little more honest if the Government had made that explicit in the paper they published and had made some suggestions about how to mitigate the risk to consumers. Astonishingly, although the Government's report warns businesses selling into the EU that they should keep apprised of future changes in EU regulations, it fails to offer any advice or support on how to achieve this. Both businesses and consumers must be updated by the Government, so some help on that would be of assistance. It is clear that the Government are not doing enough with either consumers or businesses, and that is clearly causing anxiety. Having listened to the Government's radio ads, they are really content-empty, probably causing less rather than more clarity.

The recent Which? survey found that nearly two-thirds of the over-65s are worried about Brexit. Even among the 35 to 64 age group, there has been a dramatic rise of 25 percentage points since September 2016, with its "Brexit worry figure" now at 61%. Is it any wonder that consumer spending in December was down 1%—the biggest decline for over a year?

This House will recall that we passed an amendment to the withdrawal Bill to retain the Charter of Fundamental Rights, referred to by my noble friend Lord Cashman. A part of our thinking when we passed that was prompted by Article 38, ensuring, "a high level of consumer protection".

In sweeping away this objective in the way the Government have sought to do, I fear that they are sacrificing consumers on the altar of Brexit. It is a sad day after nearly half a century of improving consumer rights.

9.38 pm

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Henley) (Con): My Lords, I join other speakers in offering my congratulations to the noble Baroness, Lady Kennedy of The Shaws, on chairing the EU Justice Sub-Committee and on producing this report. I also congratulate her on chairing what the noble Lord, Lord Anderson, described as a happy committee. I congratulate, too, on all their work the noble Lords, Lord Anderson, Lord Judd and Lord Cashman, and the noble Earl, Lord Kinnoull, as I do the members of the committee

who are not able to be here. When she goes away, the noble Baroness will, if nothing else, have the praise of her noble friend Lord Judd, who described her as someone who had views, and I am sure that all of us would echo that. All of us who have known the noble Baroness for some time know that she is certainly somebody who has views.

It is my pleasure, indeed my joy, to respond on behalf of the Government—it is late but we will, I hope, be finished by 10 o'clock. I welcome the focus of the committee, which has been on consumer protection. I am grateful to the noble Baroness, Lady Burt, for emphasising the very high standard of consumer protection that we have in UK law. It is useful to point that out. Maintaining and enforcing this protection effectively remains a government priority as the UK withdraws from the EU.

The report was published in December 2017, which, I accept, is now quite a long time ago. The Government responded in a timely fashion in February 2018, almost a year ago. I will not go through the response produced by my colleague Andrew Griffiths at that time. It is now on the record and has been referred to in the debate. I can only apologise for the fact that it does take time for some of these reports to get debated. It might have been the noble Lord, Lord Bilimoria, who said during this debate or the previous one that we have had time and should perhaps have used other evenings for debating some of these reports. These are matters beyond my pay grade, and for the usual channels. I apologise, but we are having the debate on this occasion.

What has been happening this week will not have escaped noble Lords. My noble friend Lady Williams referred to the old adage that a week is a long time in politics—this week somewhat longer than others, even though it is only Wednesday. In the context of this debate and the timing of the EU exit process, obviously things change; there are many questions to be answered on what will happen next. I am unlikely to be able to address them all in detail during my 20 minutes or so of winding up. What I can say is that the withdrawal agreement still offers a time-limited implementation period during which UK consumer protections based on EU law will be retained; this meets our main aim of an orderly Brexit delivering the stability and continuity that consumers and business both need and demand.

The terms of the future relationship will continue to be a matter—dare I say it, as colleagues have done on earlier occasions—for negotiation. We are aiming for high levels of cross-border co-operation on consumer issues as part of our new relationship with the EU. As a responsible Government, we continue to prepare proportionately for all scenarios. In order to minimise disruption, our preparations for a no-deal scenario are focused on maintaining continuity in the short term for businesses and citizens; for example, the Government have committed to funding the European Consumer Centre for at least one year in the event of a no-deal exit. Consumers will be able to contact this service for help and advice until at least March 2020. We have also progressed legislation under the withdrawal Act to ensure that consumer law will continue to function effectively after exit day.

As the Government made clear in our written response, we recognise the importance of effective cross-border enforcement co-operation and information-sharing systems in protecting consumers. I can reassure the House again that the Government are fully committed to negotiating the best possible deal with our partners to deliver this. We want UK consumers to be able to buy with confidence from traders in the EU, and vice versa. The way that consumer protections apply when buying cross-border in future, and how reciprocal arrangements would work, are a matter for the negotiations. The political declaration on the framework for the future relationship sets out that the UK and EU will work together to safeguard high standards of consumer rights.

I shall say a little about national regulatory and trading standards bodies. On the role of national regulators, the Government are working closely with stakeholders across the consumer protection landscape to ensure that enforcement remains effective after EU withdrawal. We work hard to make sure that national, regional and local enforcement is joined up. National Trading Standards supports its local colleagues in sharing intelligence and handling complex or wider-ranging issues that span local authority boundaries. The Government have also set up the Consumer Protection Partnership, which helps enforcers and consumer advice groups to work together to pool information, identify new issues and make the best use of their resources.

On funding, about which the noble Baronesses, Lady Burt and Lady Hayter, and the noble Lord, Lord Anderson, all expressed some concern, it is important to be clear about the different funding streams. Local authorities are responsible for their own finances and recruitment, and are accountable to their local electorate. That means that spending and resourcing decisions for individual trading standards are a matter for each local authority, and they will determine their own priorities. In addition, two national bodies, National Trading Standards and Trading Standards Scotland, have responsibility for prioritising and co-ordinating cross-local authority boundary enforcement. Combined funding from my department for those two organisations is just over £14 million per year in 2018-19, enabling serious regional and national level breaches of consumer law to be tackled effectively.

Baroness Hayter of Kentish Town: We were discussing not the national issues but rather local trading standards having to check local products. I think the Minister is saying that although there will be more checks, they are not going to make any more money available.

Lord Henley: My Lords, I have given the amount of money that will be available from central government for National Trading Standards and for Trading Standards Scotland. Obviously, as I made clear, other matters are a matter for local authorities.

I turn to engagement with stakeholders. We have continued to engage regularly with consumer groups, despite what the noble Baroness had to say, and we will continue to do so; we have recently had two ministerial round tables. The noble Baroness said that I would come with a briefing setting out a long list.

[LORD HENLEY]

She has received a letter containing our meetings with the appropriate authorities and she seemed to imply that most of those meetings were not adequate. She is right: I have come with a long list. I am not going to read through it all, partly because—I have to admit that this is my own incompetence—I see that the list that I have come with starts at the beginning of 2018 but only goes up to June 2018. There will be many more going beyond that.

The point that I wanted to make is that this is not just a list of Ministers from my own department, although they appear as well; there are Ministers from other departments such as DExEU, the DWP, Defra, the DfE and DCMS. Even the Treasury has been gracious enough to see people. I am sure that that will continue. I feel that we have engaged and will continue to engage in order to ensure that there is the appropriate protection in the right way and that we listen to everyone's concerns.

I shall deal with some of the specific concerns raised in the course of the debate, starting with those raised by the noble Earl, Lord Kinnoull. I am grateful to him for alerting me to them, as they are very important. He wanted an update on CEN and CENELEC and what we intend. As I think he will be aware, the British Standards Institution, the UK's national standards body, is independent of the Government, but we are working together to ensure that our future relationship with European standards bodies continues to support a productive and open competitive business environment in the UK. The members of CEN and CENELEC have agreed a transition period until the end of 2020, to resolve their membership criteria and find a form of wording that continues to include the BSI as a full member.

The noble Earl wanted an update on the efforts to achieve good civil justice co-operation and participation in the Lugano Convention. The political declaration on the framework for the future relationship between the EU and the UK provides a positive basis for discussions on this, and we remain committed to future co-operation with the EU on civil and commercial matters, recognising that it is in our interests to co-operate with international parties. The UK will continue to prioritise joining Hague 2005 in our own right and seek to accede to the Lugano Convention. The UK will engage with EU partners to ensure that these important issues, which provide essential protections for systems, are a focus of the detailed negotiations to come.

I also want to address some of the concerns raised by the noble Baroness, Lady Hayter, including those she alluded to last night when we were dealing with EU exit regulations, particularly the consumer protection regulations. She asked about information sharing and noted how vital it was for product safety and alerting other authorities. She asked whether that will continue and wanted assurances that we would retain access to RAPEX, the EU rapid alert system for dangerous non-food products. Information sharing with other countries is one of the most important ways that we can help to protect consumers from unsafe products and it is in all our interests that EU and UK market surveillance authorities continue to share information. Work is under way to explore options for maintaining

information sharing across borders as part of our ongoing partnership. We will also ensure that the UK's market surveillance system continues to be robust following our exit from the EU.

The noble Baroness also asked whether we would be just waving goods through to avoid congestion at the border. Again, I assure her that we continue to take the issue of consumer product safety seriously and are committed to ensuring that only safe products are placed on the UK market now and in the future. Our robust programme of risk-based market surveillance will continue to include the ability to intercept products as they enter the UK, check products already on the market and gather information through a variety of intelligence sources. If there is a no-deal exit, EU and UK product-safety legislation will be aligned on day one, and therefore we do not anticipate significant changes in risk initially. She also asked about EHICs—I think I have one of those cards in my wallet at the moment—and I will write to her about that, if I may, as I will have to take advice from the Department of Health and Social Care in due course.

The noble Baroness, Lady Kennedy, was worried that we would see a watering down of consumer rights after Brexit. I make it clear that we want to continue to maintain close co-operation with the EU on consumer enforcement, as I think I have made clear throughout my speech. We will seek to do that as part of the future economic partnership.

I accept that cross-border enforcement co-operation might become more difficult in the event of a no-deal exit, but we have retained all the necessary powers for our enforcement bodies to continue protecting consumers in the UK courts in cases of infringement of retained EU consumer law. The exact impact on consumers will be difficult to predict because the scale, nature and severity of infringements will vary. It will also depend on the degree to which UK and EU enforcers are willing and able to co-operate with each other. As I made clear, we will obviously continue to work with consumer groups and enforcers to monitor the impacts and to respond as necessary.

Lastly, I will touch on the Competition and Markets Authority, which the noble Baroness referred to, and whether it is prepared for a no-deal exit. We remain confident in the CMA's ability to be ready for exit day. It continues to plan for such an outcome. BEIS continues to work closely with the CMA to ensure that that is the case. As the noble Baroness will remember, in the Budget back in autumn 2017, I think, my right honourable friend the Chancellor committed £3 billion over the next two financial years to help departments, which includes the CMA and the devolved Administrations, prepare for the UK's exit from the EU. The CMA is recruiting additional consumer protection staff, which amounts to a 25% increase in its capacity in anticipation of more complex cross-border consumer protection work. The vast majority of those roles have now been filled.

I hope that I have dealt with most of the questions. As I said to the noble Baroness, Lady Hayter, I will write to her on her question about the EHIC. If I find that there are other matters that I need to write on, I will do so. I again thank and congratulate the noble Baroness on—as the noble Lord, Lord Anderson,

put it—her happy sub-committee. I thank and congratulate all those who participated in the debate and give the assurance that continued effective consumer protection and enforcement after EU withdrawal remains a priority for Her Majesty's Government.

9.57 pm

Baroness Kennedy of The Shaws: My Lords, I too thank everyone who took part in this debate. I assure the House that I have not paid handsomely for the tributes that have been paid to me. It is fair to say that our committee is a happy place because we all agree that hard work is best done if you can create a conducive atmosphere. We have very different, divergent views, but the committee's spirit is to listen and we contribute in a spirit of collaboration. That is one thing that we know: collaborating produces good outcomes. We might miss that when we leave the European Union.

I will reiterate something said by others. We have a very good secretariat in this committee. We could not do this work without them. One of them is here tonight: Alex Horne, who is a really formidable lawyer. He and his colleague, Tim Mitchell, provide us with incredibly fine lawyerly advice. Others on the secretariat serve the committee very well.

The noble Lord, Lord Bilimoria, said something very important: "Now we know". In many ways that should be the strapline for what has happened over the two and half years since the referendum. Many of the things that are the subsoil of our relationship with the rest of Europe were not known to all of us. On this committee I have learned hugely about the collaboration and co-operation, about the ways we, the British, have contributed to a good and energetic Union. Out of that come positive things which make the world a better place.

That is something we should be saying. We did not say it hard enough in the years when we were in the European Union, and it is regrettable that at this late stage we are having to communicate to each other the incredible benefits that have come by working together. Now we know. If only we could get that out to the general public and to some of the people who so vociferously argue against the Union. I thank everyone. I beg to move.

Motion agreed.

House adjourned at 10 pm.

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