

Vol. 795
No. 237



Thursday
17 January 2019

PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS

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

Thursday 17 January 2019

11 am

Prayers—read by the Lord Bishop of St Albans.

Education: Art and Design Question

11.06 am

Asked by **The Earl of Clancarty**

To ask Her Majesty's Government what steps they are taking to encourage the teaching of art and design in schools.

The Parliamentary Under-Secretary of State, Department for Education (Lord Agnew of Oulton) (Con): My Lords, the Government want children to be taught a broad and balanced curriculum up to the age of 14. During this time, children should be exploring the widest possible range of subjects, including art and design. Ofsted is currently reviewing its inspection arrangements and launched a consultation yesterday on proposals for a new inspection framework. These proposals will place a strong emphasis on schools providing a broad and balanced curriculum for all their pupils.

The Earl of Clancarty (CB): My Lords, from the decline in arts teaching in primary schools, as described in a new Fabian Society report, to the EBacc's exclusion of the arts, students are increasingly not receiving the balanced education that they deserve and is necessary for the future of our creative industries. Art and design is under the additional pressure of not attracting ITE bursaries, unlike other subjects which exceed their trainee targets. Will the Government address that unfairness?

Lord Agnew of Oulton: My Lords, we clearly need to prioritise our bursaries budget so that we can incentivise applications in subjects where it is hardest to attract applicants. The vacancy rate, though, for art and design teachers as a percentage of teachers in post is lower than for music; indeed, over the last two years we have seen an increase in the number of applicants for both art and design and drama.

Lord Baker of Dorking (Con): My Lords, is the Minister aware that GCSEs in design and technology have fallen by 30%, which is disastrous? I therefore welcome the support for university technical colleges because our 14,000 students do technical subjects at 16 to 18. Does he welcome the new Ofsted policy from Amanda Spielman, under which in the future Ofsted will concentrate less on exam results and more on a broad and balanced curriculum? This is good for art, music and design and technology.

Lord Agnew of Oulton: I agree with my noble friend and section 26 of the consultation document addresses inspections directly. It will accelerate inspections where concerns are identified about the breadth and balance of the curriculum. Paragraph 155 says that inspectors will consider the extent to which the school's curriculum sets out the knowledge and skills that pupils will gain at each stage. Ofsted will also consider the way that the curriculum selected by the school is taught and assessed, to support pupils to build their knowledge and apply it as skills.

The Lord Bishop of London: My Lords, high-quality arts education as part of a broad curriculum has been shown not just to support our creative industries but to improve academic achievement and enable children to look at problems in different ways. In the light of Ofsted's consultation on its new framework, which looks at quality, intent and impact in the curriculum, will the Minister say how this Government will ensure that there is no reduction in pupil funding in real terms? Good art education requires good teachers.

Lord Agnew of Oulton: The right reverend Prelate is quite right that a broad and balanced education, which includes the arts, is crucial to prepare children for their future lives. I am sure that all noble Lords will join me in congratulating Harris Westminster Sixth Form today, where 37 Oxbridge offers have been announced. That is the most incredible performance when we consider that 13 of these children were on the pupil premium, two have been in care and 14 were from ethnic minorities. A major reason in their being able to get there was that they had a broad and balanced education on the way through.

Baroness McIntosh of Hudnall (Lab): My Lords, in his answer to the noble Earl, the Minister referred to vacancy rates in music and drama. Can he tell the House how many schools in the maintained sector no longer have a specialist music or drama teacher of their own? If he cannot tell me, perhaps he could write to me with that information.

Lord Agnew of Oulton: I am happy to write to the noble Baroness on that specific subject, but I reassure her that, in primary schools, broadly the same amount of time is spent teaching arts as is spent teaching history and geography. Indeed, the number of pupils taking GCSE art and design was broadly the same last year as in 2009-10: 26% then compared to 27% last year.

Lord Addington (LD): My Lords, will the Minister consider that we are having to import people skilled in design and technology? Art and design is the gateway qualification, particularly at GCSE. Would it not be in the nation's direct interest to make sure that we up the number of people taking examinations at this first step?

Lord Agnew of Oulton: My Lords, we have seen a decline in the number taking design and technology specifically, but there has been a major restructuring

[LORD AGNEW OF OULTON]

in the way that exam is taught. We have replaced it with a new food preparation and nutrition GCSE, examined for the first time in 2018. D&T food technology accounted for nearly 30,000 entries in 2017, and a greater number of pupils took food preparation and nutrition and design and technology combined than took design and technology in 2017. So the numbers are not as bad as they look. We offer a bursary for teachers of design and technology of £12,000 for those with a 2.2 or higher, which has been increased from £9,000.

Lord Lexden (Con): Is my noble friend encouraged by the continuing growth of partnership schemes between independent and maintained schools? Has he noted that there are now over 1,200 partnership projects in drama and music? Does he agree that independent schools can do more to make their skills and facilities available to their colleagues in the maintained sector?

Lord Agnew of Oulton: I agree entirely with my noble friend. One of the things I have prioritised in my discussions with the independent sector is how it can improve and increase its support for the state education sector. Harris Westminster, which I referred to a moment ago, would acknowledge that it received a lot of help from Westminster School in the extraordinary outcomes it got—but there is always more to be done.

Lord Watson of Invergowrie (Lab): My Lords, I am pleased to hear from the Minister that Ofsted is to look at this, because arts subjects are compulsory in the national curriculum only at key stages 1 to 3. As the noble Earl said, referring to the Fabian Society report, even there they are in decline. Arts subjects in state schools are being squeezed out by the English baccalaureate, yet the artistic, creative and technical sectors of the economy are worth around £500 billion a year and need just such skills in our young people. Will the Minister accept that the English baccalaureate is the problem here, not the issues he raised previously? Will he commit to fundamentally changing that so that—as the noble Lord, Lord Addington, said—the broader curriculum can be performed, allowing us to serve the future needs of our economy?

Lord Agnew of Oulton: My Lords, I am afraid I do not accept for one moment the claims made by the noble Lord. Indeed, in 2009 150,000 pupils took art and design, while 141,000 did so in 2018—that with a cohort of 50,000 fewer pupils in the system for that phase. The noble Lord always seems to avoid the number of subjects we stripped out of the curriculum we inherited from the Labour Government. We took out over 3,000 useless subjects that children were being taught, including fish husbandry, practical office skills and nail technology services. We have brought back rigour to the education that children are learning. In 2009 only 365,000 pupils took science. Last year it was 499,000—that is 130,000 children getting a much better education.

Brexit: Consumer Rights Question

11.15 am

Asked by **Baroness Wilcox**

To ask Her Majesty's Government what assessment they have made of the impact of Brexit on the rights of consumers who purchase goods from retailers or manufacturers based in the European Union.

Baroness Wilcox (Con): My Lords, I beg leave the Question standing in my name on the Order Paper. In doing so, I draw attention to my interests as set out in the register.

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Henley) (Con): My Lords, the Government have undertaken a significant amount of work to assess the impacts of leaving the EU. We are committed to maintaining high standards of consumer protection and close co-operation on enforcement. Under the withdrawal agreement, all existing rights for UK consumers will remain the same until the end of the implementation period.

Baroness Wilcox: I thank my noble friend the Minister for his response, short though it was. The Chartered Trading Standards Institute runs a centre called the UK consumer centre network, which assists consumers in cross-border disputes with EU traders. Since it was formed just 11 years ago, it has handled more than 100,000 cases. The UK centre is currently co-funded by the UK Government and the European Union. Can the Minister assure the House that, as we leave the European Union, the Government will fully fund the UK part of the centre so that it can continue its excellent work?

Lord Henley: I thank my noble friend for that question. As she will be aware, we have been dealing with consumer affairs quite a lot this week and debated this matter in relation to the Select Committee's report only last night. In that debate, I made it clear that, in the event of a no-deal exit, the Government have committed to fund the UK European Consumer Centre for at least one more year until March 2020. That will obviously be kept under review during this year.

Lord Bird (CB): My Lords, what will the Government do about Amazon, which pays its taxes outside the UK? Will we be able to claim those taxes back to the UK after Brexit?

Lord Henley: My Lords, the noble Lord will appreciate that that question is completely wide of that on the Order Paper and I do not intend to answer it.

Baroness Crawley (Lab): My Lords, like the noble Baroness, Lady Wilcox, I declare an interest as a former president of the Chartered Trading Standards Institute. It is clear to all of us in the sector that consumer rights and protections have been continually

strengthened through our membership of the European Union. Why do the Government not value the cross-border enforcement work that the UK European Consumer Centre promotes? Why will they not guarantee beyond one year's financing—as the Minister has just said—the work of that centre in advising UK consumers at this time of enormous anxiety to them and businesses? Is there any chance of the Government funding beyond one year this very important centre for consumers?

Lord Henley: The noble Baroness, who has great experience in this field, is right to draw the House's attention to the high levels of consumer protection that we have in this country. I was grateful to the noble Baroness, Lady Burt, for stressing from the Liberal Democrat Benches only yesterday that they are higher in this country than in most other countries in the EU. Obviously, as the noble Baroness will be aware, we want those protections to be maintained—that is what we have made clear—and we do not think that consumers should see any immediate differences in protection between UK law and that of the member states immediately after exit. It is quite right and proper that UK enforcers should continue to co-operate with their colleagues in other EU states wherever possible. That was also something I was keen to stress in yesterday's debate.

Baroness Burt of Solihull (LD): My Lords, I am getting a sense of déjà vu all over again as this is the third time this week that this question has arisen. I do not believe that the Minister has managed to answer the question once, so will he indulge me again? How will British consumers be protected—if and when we leave the EU—regarding the terms and conditions of purchase before we buy, and afterwards in the event of purchasing faulty goods?

Lord Henley: My Lords, I too feel like this is the latest in a series of number 11 buses coming along together. I have been keen to stress on all occasions—on Tuesday, yesterday and today—that UK consumers should not see any immediate difference. As always, they should continue to read the terms and conditions and I am grateful to the noble Baroness for reminding them of that. They should take advice where appropriate from Citizens Advice and, as I said in response to my noble friend Lady Wilcox, there will still be funding for at least one year for the UK European Consumer Centre. We will consider whether to extend that during the course of the year.

Lord Anderson of Swansea (Lab): My Lords, the Minister has used the phrase, “immediate effect” on two occasions. Does he recall that in October 2016 David Davis, the former Brexit Secretary, said that there would be no downside after Brexit, only a considerable upside? In light of yesterday's debate, in which the Minister participated, and the report of the EU Justice Sub-Committee, which showed that we are essentially dealing with damage limitation in respect of consumer protection, does he think that Mr Davis's views were very wide of the mark?

Lord Henley: My Lords, the noble Lord will remember other remarks in yesterday's debate about how long a week is. October 2016 is a very long time ago. I merely reiterate that there will be changes, and we want to make sure that they are as minor as possible and that UK consumers continue to have their existing protection.

Railway Services: The Pennines

Question

11.22 am

Asked by **Lord Greaves**

To ask Her Majesty's Government what progress they have made on the improvement and enhancement of railway services across the Pennines.

The Parliamentary Under-Secretary of State, Department for Transport (Baroness Sugg) (Con): My Lords, the TransPennine Express franchise will see brand new trains introduced on the route this year to improve and enhance the service. We also plan to invest £2.9 billion in the trans-Pennine route upgrade to deliver faster, more frequent and more reliable journeys between Manchester, Leeds and York, with work beginning this spring. This is our biggest planned investment project on the existing railway.

Lord Greaves (LD): My Lords, the problem is that services in the Pennine area, where I live, and in the north as a whole have got worse. One reason for this is the continuing industrial action between Northern, Arriva and the RMT union. There was another strike on Saturday, which I believe is the 45th strike in the past year. Do the Government understand that they specified the services to be provided in the north and that the Northern franchise is a contract between the Government and Arriva? Is it not time that the Government stepped in to assist in sorting out this present shambles?

Baroness Sugg: My Lords, we want to see further significant improvements in reliability for Northern passengers. The problems we have seen have been caused by a number of factors. We are working closely with Transport for the North, which co-manages the franchise, to drive this, and we have seen significant improvements in reliability, especially since the December timetable changes were successfully introduced. But there have been, as the noble Lord points out, more than 40 days of strikes on Northern and ending these strikes would of course significantly improve reliability. Although the disputes are between the union and the train operators, the Government are doing all they can to help resolve the issue.

Lord Clark of Windermere (Lab): My Lords, the Minister has announced the improvement in the service. Is it true that Network Rail wrote to the Transport Secretary in September 2018 saying that from next year for the next five years the line will be closed for 39 weeks each year? Is that right?

Baroness Sugg: My Lords, I am afraid I have not seen the letter to which the noble Lord refers. This is a huge project—nearly £3 billion to upgrade the route. Of course, there will be disruption alongside that, but we are working hard to make sure that we get the balance right in ensuring that, while we are improving reliability, there are alternative services. We recently completed upgrade works on the Calder Valley line to ensure that there is an alternative route, and we will set out further plans in due course.

Lord Alton of Liverpool (CB): My Lords, further north there is already a railway line linking Clitheroe in Lancashire to Hellifield, which is in turn linked to the Skipton-Carlisle line, that would open up enormous passenger opportunities. That line was closed in 1964 for passenger services, but has continued to be used for freight. Representations have been made to the Government by Lancashire local authorities, including Ribbles Valley, asking for the restoration of passenger services on that line. In comparison with things such as HS2, this would call for very little public money to be spent and would link towns in Lancashire with places in Yorkshire. It would be of enormous economic value in the region, and I hope the Government will consider it seriously.

Baroness Sugg: I thank the noble Lord for his question. We have a new approach to rail enhancements—the rail network enhancements pipeline—which is following lessons learned from previous commitments. We are studying each of these cases carefully. I am not sure about the specific line to which the noble Lord refers, but I will certainly follow that up and write to him.

Baroness Randerson (LD): My Lords, the Secretary of State blamed the trade unions for the excessive fare rises at the beginning of this year, but across northern England, as elsewhere, last year passengers had a very poor deal. It was caused by a lot more than trade union action alone. Will the Government consider using a fare freeze in future years for companies that fail to deliver a decent service, as they have promised?

Baroness Sugg: I agree with the noble Baroness that the passenger services provided to many parts of the railway system last year were not acceptable. We are working hard to improve them. I know that passengers who have experienced significant delays will be frustrated with rising fares, but we need to be fair to taxpayers as well as passengers; unlike the special compensation scheme we have introduced, which is funded by industry, it would be down to taxpayers to make up the amount if we froze fares. We think that introducing compensation schemes funded by the franchise companies is the best way to target those most affected.

Lord Judd (Lab): My Lords, I declare an interest as living in west Cumbria, where the problems we have been hearing about are acute. Does the Minister agree that at the heart of this ongoing story there is an issue about the safety and care of passengers in a one-person operated rail system?

Baroness Sugg: My Lords, passenger safety is our top priority. Driver-controlled operation is safe, and more than 50% of all rail journeys in the UK are made

on driver-controlled trains. On the specific issue in question, the Transport Secretary has offered guarantees of employment to members who currently fulfil the role of a second person on the train—that is beyond the length of the franchise.

Lord Kennedy of Southwark (Lab Co-op): Will the Minister outline what improvements there will be for Bradford? It is our fifth-largest city, and yet it still takes more than 20 minutes to make the seven-mile journey to Leeds. It is not good enough.

Baroness Sugg: We have extensive investment planned for the north. Northern Powerhouse Rail is currently in the development stage, and options are being considered which include serving Bradford. We will be working closely with cities across the north to deliver those improvements and services.

Lord Lexden (Con): Does my noble friend have any news on the improvements that are needed on the line between London and Lincoln? Does she realise the acute disappointment that was manifest throughout the House when the special House of Lords awayday had to be postponed, particularly since my noble friend Lord Cormack was looking forward to entertaining us all in sumptuous style in the city of Lincoln?

Baroness Sugg: I thought that a different noble friend would ask that question, but I thank my noble friend for his continued interest in this subject. I have met LNER and the noble Lord, Lord Cormack, in an attempt to make progress on this. LNER is hoping to introduce new services to Lincoln from September this year. This is dependent on Network Rail approving its timetable bid, but its services will operate from Monday to Saturday and will include services suitable for day trips from London to Lincoln, so perhaps the awayday could still go ahead.

Nuclear Power: Future Energy Needs

Question

11.29 am

Asked by **Lord West of Spithead**

To ask Her Majesty's Government what assessment they have made of the impact on the United Kingdom's future energy needs of any decision by Hitachi to withdraw from the Wylfa Newydd nuclear project and Toshiba having withdrawn from the Moorside project in Cumbria.

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Henley) (Con): My Lords, the noble Lord's Question is timely. My right honourable friend the Secretary of State for Business, Energy and Industrial Strategy will be making a Statement in another place following Hitachi's announcement this morning; I would have been happy to repeat it. National Grid has confirmed that it does not see an issue for future security of supply for plans for these projects over the long term, and there is plenty of time for the market to respond.

Lord West of Spithead (Lab): My Lords, our nuclear industry is in crisis; I have to say that that Answer has a certain element of complacency in it. In the 1950s, our nation led the world in nuclear power generation, and decisions by successive Governments of all hues have got us into the position today where we cannot even construct a large civil nuclear reactor. A quarter of our energy is provided by nuclear; looking at 2035, when the energy requirements will be much larger, we are saying that a third of our energy will be supplied by nuclear. Now the only player seems to be Chinese. Bearing in mind our view on the rollout of 5G, are we happy for the Chinese, by 2035, to control one-third of the energy supply of our nation?

Lord Henley: My Lords, I am glad that the noble Lord stresses the importance of the nuclear industry and the fact that it is supplying some 20% of our electricity requirements and 40% of low-carbon electricity. Some 15 nuclear reactors operate throughout the UK. We would have hoped for a better announcement from Hitachi but that was not the case, and it is obviously right that my right honourable friend looks to the taxpayer to make sure that there is the appropriate deal for them. At the moment, costs in the nuclear sector are still rising, at a time when costs for a great many renewables are coming down. That is one of the reasons why there are problems. However, the fact is that we have seen the development of Hinkley C, and, as the noble Lord was quite right to suggest, we are the first Government for a number of years to make progress in that area.

Lord Howell of Guildford (Con): My Lords, is my noble friend aware that, with the possible withdrawal of the Japanese from Wylfa and their withdrawal anyway from Moorside, and with the Chinese building at Bradwell, involved in Sizewell C—which has not been mentioned yet—and of course financing Hinkley C, this places the Chinese, as the noble Lord, Lord West, rightly said, in pole position in the rebuilding and replacement of our nuclear fleet? Does the Minister agree that this will have a major impact on our UK energy policy, which already has all its problems, and will he ask his government colleagues, including the Whips, whether we can have a serious and urgent debate on this whole matter, which has major implications for national security and policy?

Lord Henley: My noble friend is quite right. That was the tail end of the question from the noble Lord, Lord West; I apologise to the House for not being able to address it in the time that was available to me. I certainly agree that it would be timely to have a debate on this in the light of the recent announcement; I was hoping to be able to repeat the Statement, and perhaps there might be other moments when this could happen. However, obviously that is a matter for the usual channels.

Lord Wigley (PC): My Lords, does the Minister accept that putting Wylfa Newydd on indefinite hold causes economic planning blight in north-west Wales, and the north Wales growth deal is based on the assumption that it is going ahead? Will the Government now raise the level of support allocated to this region?

Lord Henley: My Lords, I am aware of that growth deal, but I do not accept the noble Lord's suggestion that this in effect scuppers that—I cannot remember what precise words he used. Obviously, it makes life more difficult, and we would not have wished to have to make this Statement, but it is also right that my right honourable friend the Secretary of State looks to the calls on the taxpayer and ensures that we get a good deal for any investment we make.

Lord Fox (LD): My Lords, the Minister said that the market has time to respond. The market has responded. EDF caught a cold and got cold feet, Toshiba has pulled out, Hitachi has pulled out. What is the market in large nuclear generation and what is the Government's plan B if they fail to deliver the financial engineering, as they clearly are at the moment?

Lord Henley: My Lords, in responding to questions of this sort at the Dispatch Box, it is difficult to go into the full details of what was planned. As I said, my right honourable friend the Secretary of State will make a Statement any minute now on the subject—I am waiting for a signal. I would have been happy to have repeated it, but no doubt the noble Lord and I, and others, can discuss it afterwards, and there may be other opportunities to have a wider debate on the subject.

Lord Cunningham of Felling (Lab): My Lords, this is the second major blow to the long-term strategy of electricity supply here in the United Kingdom. As my noble friend Lord West pointed out, we cannot deliver this technology ourselves, having been a world leader for decades. If we cannot trust the Chinese with optical fibre technology, are we really going to put all our eggs in the Chinese basket on nuclear technology?

Lord Henley: My Lords, as I said, this announcement is not welcome. I should have preferred to have had more time to debate it in a proper and timely manner. Nevertheless, we remain committed to nuclear power. The noble Lord will remember our nuclear sector deal. We will look to see what we can do. We still have a great deal of expertise in this country, and I think we can work on that.

Business of the House

Timing of Debates

11.36 am

Moved by Baroness Evans of Bowes Park

That the debate on the Motion in the name of Lord Lisvane set down for today shall be limited to 3 hours and that in the name of Baroness Kidron to 2 hours.

Baroness Smith of Basildon (Lab): My Lords, I ask the noble Baroness to assist the House. Your Lordships will be aware that, normally on a Wednesday morning, the future business of the House for the following week is published, and yet here we are at almost 20 minutes to 12 on Thursday and we have not yet had sight of the business for next week. This is quite extraordinary and, as far as I am aware, unprecedented. I appreciate that the Prime Minister is highly likely to

[BARONESS SMITH OF BASILDON]

be making a Statement on Monday that will require a debate within seven days, which may require some change, but I fail to understand why the business for next week is not available. Can the noble Baroness or her colleague the Chief Whip enlighten the House as to the problem?

The Lord Privy Seal (Baroness Evans of Bowes Park)

(Con): The noble Baroness will be aware that all our business next week has been tabled in the greens and has been available to noble Lords. We shall be publishing *Forthcoming Business* as soon as we can today because, as she may not be aware, the House of Commons business has just been announced through the business Statement, which we felt was likely to have an impact, and we wanted to discuss it through the usual channels to ensure that the House of Lords business matched. We will be talking through the usual channels as soon as we leave this Chamber in order that we can publish *Forthcoming Business* as soon as we can afterwards.

Lord Grocott (Lab): My Lords, on next week's business, the House will be aware that a very exciting by-election is taking place at present, the result of which is to be declared next Wednesday. In the past, we have not had the sufficient information that one would normally expect from a returning officer of a by-election, and I wonder whether the Leader of the House could use her authority to arrange with the usual channels that on Wednesday, when the result is announced, key pieces of information such as turnout, the number of votes cast for each candidate, the number of spoilt ballots and all the other details which the House would wish to hear are provided.

Baroness Evans of Bowes Park: I am sure the noble Lord is aware that this does not have much relevance to today's Motion, but his comments have been heard.

Motion agreed.

Brexit: Stability of the Union

Motion to Take Note

11.39 am

Moved by Lord Lisvane

That this House takes note of the possible effects of Brexit on the stability of the Union of the parts of the United Kingdom.

Baroness Stedman-Scott (Con): My Lords, the business we are about to begin is very important and there is a real desire to hear from every contributor. However, time is tight so, in the nicest way possible, I ask noble Lords to adhere to the time allocated to them. When the Clock reaches five minutes, I will stand up to maintain order in the debate.

Lord Lisvane (CB): My Lords, I begin with a word of thanks to those Cross-Bench colleagues who voted for the Motion to be debated. I am delighted that the noble Lord, Lord Young of Cookham, is to reply to the debate for the Government. In view of our happy co-operation in former lives, I hope that I may refer to him as my noble friend on this occasion. I see from the

speakers' list that I am allotted 15 minutes in moving the Motion. That is an unimaginable luxury but, in view of the long list of speakers, I shall try not to use all that time and so perhaps offer a little elbow room to other noble Lords. I am extremely grateful to the Government Chief Whip for the half-hour extension to the debate.

The Motion is couched specifically in terms of the hazards to the union posed by Brexit, but the seeds were sown long before. We have a worrying habit in this country of doing constitutional change in bits, as the occasion serves, but with little overall intent or co-ordination. I have seen the process at close quarters for 46 years, so I entirely understand how this has come about. The Government, often incoming, have their priorities and wish to demonstrate their authority. The business managers wish to make rapid progress with focused proposals. They do not much like Parliament going into what might be called seminar mode. And of course, there is the ever-looming phenomenon of "Events, dear boy, events".

The result over several Parliaments is that we are left with a patchwork. Nowhere is this clearer than in the devolution of powers to different parts of the United Kingdom. Scotland, Wales and Northern Ireland have different models of devolved government. They have developed independently and subject to the successive pressures of the moment; no one, I think, would regard any of them as wholly successful. Moreover, they are characterised by a sort of imperial condescension from the centre—from Westminster and Whitehall, but especially from the latter—and they are inconsistent. As a Welshman by birth and title, I think I may ask why Scotland and Northern Ireland can set their own rates of air passenger duty but Wales cannot. Indeed, why are justice and policing devolved in Scotland and Northern Ireland but not in Wales? I am glad that my noble and learned friend Lord Thomas of Cwmgiedd is addressing that question through the work of his commission. England, the largest part of the UK, accounts for some 85% of United Kingdom GVA and a little more in terms of population and GDP, yet, with the exception of London and a few city mayors, it has been largely omitted from these changes. Of course, that poses a pressing but ever more intractable "English question".

I have described an unsatisfactory and probably unstable system that has come about through a variety of political pressures and aspirations, often worthy in themselves but with unco-ordinated and piecemeal results. Were we not now set to leave the European Union, in any event, significant centrifugal forces in the years ahead would put the integrity and stability of the UK's devolution settlement at risk. The profound Brexit changes now in contemplation will, I suggest, only increase that risk. I am sure that noble Lords taking part in the debate will have many expert perceptions of how the months ahead may put further strain on the union. I note that your Lordships' Constitution Committee has described our territorial constitution as "in flux" and our European Union Committee has said that,

"the European Union has been, in effect, part of the glue holding the United Kingdom together".

What are the main hazards? The first is the Brexit process itself, bearing in mind that in the referendum, two of the constituent parts of the UK voted differently

from the other two and differently from the overall result. Secondly, the repatriation of powers will be contentious. Central government will want to protect the UK-wide single market by retaining substantial powers in London, but Edinburgh, Cardiff and Belfast will not see it like that. Also, the repatriation process will, I think, take longer than anyone at the moment predicts, which is not going to help. The complex exchanges over the Scottish and Welsh continuity Bills and the referral of the Scottish Bill to the Supreme Court demonstrate that there are serious unresolved tensions. The Scottish constitutional relations Secretary has referred to “constitutional vandalism” and has said that he,

“could not conceive of circumstances”,

in which the Scottish Parliament would give its consent to further UK Brexit-related legislation.

Our departure from the EU will intensify debate about the fair funding of the different parts of the UK. It is a commonplace to say that we must move on from the Barnett formula, but it is not yet clear how we should do so. In Northern Ireland, the issues of borders and backstops are already causing great concern and contention, and lurking behind those issues is the aspiration of some for reunification. There is also the risk, identified by the Scottish Government, that future customs arrangements might give Northern Ireland a competitive advantage among the parts of the United Kingdom.

In Scotland, a significant proportion of those who supported independence in 2014 did so on the basis that an independent Scotland would or could become a member state of the EU. The UK having left the European Union would, in the case of Scotland, remove the long-standing unwillingness of the EU to countenance subnational aspirations, as would still be the case with Lombardy, Catalunya, Flanders and so on. This might be a seductive prospect in the context of any indyref2.

Intergovernmental relations within the United Kingdom are the concern of the Joint Ministerial Committee, which has now been in existence for 20 years—20 years this year, actually. This should be the key forum for the discussion of developing relations, but both the Scottish and the Welsh Governments have expressed dismay at the way it is operated. Her Majesty’s Government have the opportunity to make this a much more effective mechanism to support the Brexit process. I trust that this is something that will receive close attention, as recommended by our EU and Constitution Committees and the equivalent committees in Scotland and Wales. I hope that in his reply to the debate, the noble Lord will be able to tell us the Government’s current thinking on how the JMC might be overhauled.

The House of Commons Public Administration and Constitutional Affairs Committee has suggested that separate English representation on the JMC would be a way of addressing the English question, although how this would be achieved in practice is not entirely clear. It is a pleasure to pay tribute to the work of the Interparliamentary Forum on Brexit, which brings together the chairs and convenors of the committees scrutinising Brexit at Westminster, Edinburgh and Cardiff with, understandably in the current circumstances, the participation of officials from Belfast as observers. The forum, which happens to be meeting at Westminster

today, offers a mutually supportive and constructive approach which so far has not, I think, quite been replicated in the JMC, which the forum has described as “not fit for purpose”.

Noble Lords may be chafing slightly at my listing a litany of problems without any suggestion of how they might be cured. In the excellent debate in your Lordships’ House before Christmas, there were calls for a constitutional convention or commission. In replying to that debate, the noble Lord who is now on the Front Bench said that the wide-ranging nature of the issues raised meant that any convention looking into them would take years to do them justice. I have a lot of sympathy with his point of view. It would be hard to argue that such a convention should be anything other than comprehensive, which might further reduce the likely glacial pace of such an initiative. Time is not on our side.

I do not suggest that the Act of Union Bill, which I introduced in October, has all the answers, but at least it seeks to address the problems in an holistic way. I must be careful not to offend against anticipation—this is a debate on the Motion before us, not on the Second Reading of the Bill—but perhaps, with your Lordships’ permission, I may say a few words about it.

The Bill is the result of the work of the Constitution Reform Group, which consists of members of all the major parties, including the noble Lords, Lord Hain and Lord Campbell of Pittenweem, both of whom are in their place. The group is convened and chaired by Lord Salisbury, a former distinguished Member and indeed Leader of your Lordships’ House, and the Bill has been drafted by the outstanding parliamentary draftsman Daniel Greenberg. It seeks to replace the present top-down method of devolution with a bottom-up method, in which the constituent parts of the United Kingdom—and perhaps the regional parts of England—would decide which powers they wished to pool for greater solidarity and effectiveness. It would replace the central imperial condescension, to which I referred earlier, with a devolution settlement properly owned by its participants. It would also include something perhaps missing from the present arrangements: the R word—respect.

The Bill is comprehensive but it does not attempt to provide a full written constitution. It does not, for example, touch those parts that work perfectly well, such as the courts and the judiciary. But it does seek to address the areas of difficulty, some of which I have outlined. It would not try to bind a subsequent Parliament—no Bill can do that—but it offers an overarching settlement with an indication of how primary legislation of, as it were, the second tier could fill in some of the detail. And there is a lot of detail to be filled in. In a sentence, it aspires to be a plan B. As each day passes, I become more and more convinced that we need a plan B.

11.51 am

Lord Dunlop (Con): My Lords, it is a real pleasure to follow the noble Lord, Lord Lisvane. He and I made our maiden speeches on the same day and he speaks with the greatest authority on constitutional matters.

[LORD DUNLOP]

Brexit raises fundamental issues, not least the question of trust in democratic institutions here and right across Europe. It is absolutely right, therefore, to consider afresh governance within the UK. Brexit is seen as, at best, a challenge to the stability of the UK and, at worst, leading inexorably to its break-up. However, the picture is much more complex. The biggest threat to the union hitherto—the 2014 Scottish independence referendum—took place at a time when no one thought Brexit a serious possibility and after 40 years of EU membership. That should give us all pause for thought. Yes, continued membership of the EU was an argument in the 2014 referendum, but it was neither a primary nor decisive one. Currency and fiscal questions were much more important. Nicola Sturgeon's efforts since the 2016 vote to weaponise Brexit to justify a second Scottish independence referendum have so far failed. Support for independence remains at or less than the 45% level registered in the 2014 referendum. Why might this be?

First, there are around 400,000 yes voters in Scotland who support Brexit. Secondly, linking Scottish independence to EU membership is a hard sell for many nationalists. In their minds, throwing off the yoke of Westminster for that of Brussels is not the most persuasive pitch. Thirdly, if the Brexit negotiations demonstrate how difficult it is to leave a 40 year-old union, they also highlight how fraught it would be to disentangle a 300 year-old partnership. Alex Salmond's confident assertions that Scottish independence could be negotiated in 18 months, incurring just £200 million in set-up costs, seem even more fantastical today than they did at the time. Nevertheless, the risks and challenges to the union should not be underestimated. However, the key point, which the noble Lord, Lord Lisvane, has already made, is that renewing the UK's territorial constitution is necessary irrespective of Brexit.

The noble Lord, Lord Lisvane, has proposed a new Act of Union. I sympathise with its underlying purpose to provide a coherent UK framework within which powers are exercised. However, I am sceptical of federal-like solutions. First, there is the problem of England. No federal state in the world has one component part representing 85% of the whole population or has as few as four federating units. There is also scant evidence that this is what people in England want. The British Social Attitudes and Future of England surveys offer little sign of a growing sense of English identity. Attitudes have hardly changed in the past 20 years. England's laws decided by English MPs is, in surveys, more popular among voters than either creating a separate English Parliament or a set of regional assemblies.

Secondly, there is the problem of the SNP Government in Edinburgh. I have difficulty seeing SNP Ministers agreeing to renew their constitutional marriage vows in a new Act of Union when their *raison d'être* is to sue for divorce. Moreover, a big-bang approach as described simply provides the SNP with a fresh platform to argue for more powers, and risks hollowing out the UK, when the Scottish Government are struggling to use the powers they already have.

A more incremental approach is required. Over the past 20 years significant powers have been devolved to Holyrood, Cardiff and Belfast. However, less attention

has been paid to the glue—the institutions and mechanisms—that holds together the UK. Reform here has not kept pace with the extent of devolution which, once the repatriation of powers from Brussels is settled, will arguably have reached a natural limit.

Baroness Stedman-Scott: I am sorry to interrupt the noble Lord but five minutes have gone.

Lord Dunlop: Attention should be paid to the machinery of intergovernmental relations, which needs to be strengthened. We also need to look at the cross-UK synergies, weakened since devolution, which need to be reinvigorated.

We need to pursue a decentralised, pan-UK strategy for rebalancing the economy, driven by city regions across the country. This means moving away from seeing everything through a four-nation prism. Many of the problems confronting Glasgow, for example, are similar to those of Manchester or Birmingham. They provide embryonic structures which can be built upon. There are two years until the next Holyrood elections. Strengthening our union must be an urgent priority whatever our post-Brexit future.

11.57 am

Lord McConnell of Glenscorrodale (Lab): My Lords, in my maiden speech in your Lordships' House in July 2010 I expressed a hope that a new generation of politicians and leaders in the House of Commons, many of whom had been elected after 1999, might provide a fresh opportunity for reinvigorating the relationship between Westminster, Whitehall and the devolved Governments and Parliaments of the United Kingdom. At that time I said that I wanted to use my time in your Lordships' House to celebrate and contribute to debates on the future of that multinational, multicultural union. For that reason if no other—even if I have been disappointed since by the performance of successive Governments, who have let us down in that fresh hope—I congratulate the noble Lord, Lord Lisvane, on securing this welcome debate today and on the work that he has done since entering your Lordships' House in bringing a fresh and positive approach in looking ahead to the future of the United Kingdom. The balanced tone of his introduction was extremely welcome.

I do not want to concentrate in this debate on the old debates from 2014, 2016 and since about Brexit and the nations of the United Kingdom. I hope I can use the title of the debate loosely in order to say something about the future. In relation to Brexit I wish to make two points.

First, the lack of transparency and openness on both sides in the discussions between the UK Government and the devolved Governments on the way in which Brexit affects the devolution settlement is something I warned about in your Lordships' House, and it has contributed to the situation we are in today with such a stalemate in the other place. Secondly, I think there is a real difficulty in many of the arguments that have taken place over the past two months in relation to the so-called Northern Ireland backstop. There is diversity in legislation throughout the United Kingdom, not just between Scotland and the rest of the UK or just between Wales and the rest of the UK, but consistently

between Northern Ireland and the rest of the UK. To say that that diversity could not be part of the long-term deal that results from the other agonies of Brexit is wrong. The idea that there is some uniformity of legislative and constitutional approach across the UK is simply not true. It never has been, but it is certainly not true in the period since 1999.

The piecemeal approach to constitutional change since 1999 has done great damage to belief in politics and government and the future of the union in the UK. While I agree with the noble Lord, Lord Lisvane, that not everything that has happened since devolution has been successful, it has also not been a disaster, which is what was predicted. There is incredible positivity around some of the diversity of legislation, policy initiatives and leadership across the country, but we face a new challenge following the referendum of 2016. So far the Government have not met that challenge.

There is an opportunity here. Perhaps the 20th anniversary of the establishment of the first of those devolved Parliaments gives us another opportunity to do this. There is an opportunity to look again post-Brexit at the way in which the UK state relates to the different constituent parts of the UK and at how in practice we exercise government between Whitehall, Westminster, the devolved Parliaments and the devolved Governments. There is a need for much more accountability and transparency in whatever relationship occurs. I have never been a supporter of the joint ministerial committees. I did my best to abolish them when I was First Minister. I think they are the wrong mechanism. We need a much better and stronger relationship than committees that meet on an occasional basis and are just talking shops. We also need the UK Government to restructure themselves. The outdated posts of Secretaries of State should have gone a long time ago, and they need to go now with a new relationship inside Whitehall between Whitehall and the devolved Governments in Scotland, Wales and Northern Ireland.

As the noble Lord, Lord Dunlop, said, the national institutions of the UK need to reform and change too. Twenty years on, there has been virtually no real change in the way in which the national institutions of the UK relate to the devolved Governments and Parliaments and take account of the diversity of identity. If the Government seize the opportunity to take that approach post-Brexit, perhaps we will see the positive approach of the noble Lord, Lord Lisvane, reflected in our future constitutional arrangements.

12.03 pm

Lord Wallace of Saltaire (LD): My Lords, I shall focus on the English question and emphasise that England's place within the union is also in flux and confusion. One Brexit-supporting placard outside Parliament on Tuesday read, "Save England's Constitution"—but you cannot save something that does not exist.

After the confused debate on an English Parliament and English votes for English laws, it remains doubtful that England as such is an appropriate framework for devolution in a looser UK. In a blog for the Constitution Unit in December 2018, Sir John Curtice stated that opinion polls show,

"little evidence that there is a growing sense of English identity south of the border".

The EU referendum highlighted the political and social divisions within England, and we all know that regional equalities between English regions are the widest in any European country. Flows of EU funds to universities, companies and other bodies in the poorer regions partly help to redress this imbalance, but there is no guarantee that they will continue after Brexit.

Unlike the Barnett formula, there is no political framework for fiscal redistribution within England. The bias in infrastructure spending towards the south has become a highly visible issue across the north of England in recent years. Disillusion with the northern powerhouse—now an empty slogan—is widespread.

The Government's approach to devolution within England is top-down, based on city regions and elected mayors. For the north of England, they are becoming steadily more confused. Last weekend, the Minister for the Northern Powerhouse proposed the establishment of a "Department for the North", with its own Secretary of State to sit alongside those for Scotland, Wales and Northern Ireland—a major administrative change, if not a constitutional one. Can the Minister tell us whether this reflects the Government's current position and when they will provide more detail on this interesting idea? Meanwhile, devolution for Yorkshire is stalled, with the same Minister insisting that Yorkshire has to have four city regions, while the overwhelming majority of Yorkshire local authorities, across all parties, support a "One Yorkshire" approach. Can the Minister tell us when we may expect a coherent government response to this proposal?

The Prime Minister repeatedly claims that the Conservatives are "the party of union". It is much more the party of England, and predominantly of southern England at that. Senior Conservative Ministers overwhelmingly represent Home Counties constituencies. One of the major flaws in our first past the post voting system is that it exaggerates the regional differences between our major parties, with Labour representing the north and the industrial Midlands of England, together with Scotland and Wales, and the Conservatives the comfortable and wealthy south.

Other speakers will, rightly, point out how far devolution to Scotland, Wales and Northern Ireland has altered old assumptions about the British constitution. Reductions in the powers of English local authorities in recent decades and cuts in central support for their funding, which are still continuing, have left England the most centralised state in the democratic world. The shrinkage of local democratic government has contributed to popular disillusionment with politics as such, and the psychological distance from England's west and north to London has fuelled discontent further. Of course, it is not easy to agree on a map for devolution to English regions across the Midlands and the south—but, with London as a city now an outpost of devolution in an otherwise centralised England, we have to address the issue.

Devolution within England, as well as to our other three nations, should also feed into constitutional reform at Westminster. I have been one of a long succession of Ministers who have tried to promote reform of the Lords, and I still bear the scars of that experience. A stronger second Chamber, more effectively

[LORD WALLACE OF SALTAIRE]

checking executive power, would appropriately be constituted on the basis of regional representation, whether directly or indirectly elected, as the coalition Government proposed. However, both Conservative and Labour Front Benches continue to oppose a stronger second Chamber for fear that it would limit the power of a Government—executive sovereignty, of course—with a majority in the Commons to push through their legislation unamended.

Brexit will shake the union of the United Kingdom, but it will also worsen the growing divide between the richest and poorest regions of England. That divide, and the disillusion it has bred, must be addressed through constitutional change, as well as through economic redistribution.

12.07 pm

Lord Hannay of Chiswick (CB): My Lords, future generations of historians mulling over and analysing the dysfunction and muddle of the Brexit negotiations will, I suspect, have particular difficulty understanding and explaining how the charge was led by a party that still calls itself the Conservative and Unionist Party and by the Democratic Unionist Party of Northern Ireland, the hardest and purest of Brexit supporters, despite the risk, I would say with some confidence, of actual damage to the United Kingdom's own union and very possibly its unity. No amount of prime ministerial labelling of the union, metronomically, as “precious” will conceal that reality. So all credit to the noble Lord, Lord Lisvane, for shedding some light on this rather neglected aspect of Brexit before it is too late to do anything about it except bemoan it.

At the time, were we warned about these risks that would be incurred, especially in Northern Ireland, if the UK voted to leave? Of course we were. A few days before the vote, the two Prime Ministers who did most to build the Good Friday agreement, John Major and Tony Blair, jointly gave a stark warning. Since then, precursors of the damage to come—discord over the role of the devolved Administrations in the Brexit process, failure to constitute an Administration in Belfast and the turmoil over the Irish backstop—have multiplied.

In Scotland and Northern Ireland, as others have said, there were clear majorities in favour of remaining in the EU. The democratic legitimacy of those votes is indisputable, but you do not often hear that recognised by supporters of Brexit—and you never hear it recognised by the DUP. Overriding that legitimacy with the leave votes in England and Wales is precisely the sort of majoritarian supremacy that fuels the cause of Scottish independence and of the union of the two parts of Ireland. Will that be different if Brexit goes ahead on the basis of leaving with the Prime Minister's deal, or without a deal at all? I doubt that. The contrary is far more likely—and I would include Wales, even though its voters opted to leave.

The Government's own studies indicate a considerable and continuing loss of economic growth as a result of Brexit, and the less prosperous parts of the country, among which Northern Ireland, Wales and Scotland undoubtedly rank, are likely to suffer disproportionately.

The much-trumpeted prize for the UK of having its own trade policy is likely to result in concessions to trade partners such as the US, Australia, New Zealand, Brazil and Argentina that will damage sheep and beef farmers in Scotland, Northern Ireland and Wales. Even fishermen, among the strongest supporters of Brexit, are likely to be disappointed as the cruel deception of the Government's claim that access to markets and access to waters are totally different things is shipwrecked on the rocks of the EU's interests in the post-Brexit negotiations.

Then there will be the discord that is likely to reign over the exercise of the UK's miserably diminished influence on the shaping of EU policies post Brexit. Are there not likely to be differences between Edinburgh, Cardiff, and Belfast and Westminster and Whitehall over trying to influence trade and regulatory measures in Brussels? Will Scotland, Northern Ireland and Wales not fight their corners in Brussels, thus further weakening the influence of the UK? Of course they will—and each setback in the unequal relationship between the UK and the EU will foster the sense of separation.

If even a part of these admittedly gloomy predictions is borne out, our union is in for a rough ride in a post-Brexit world. Would it not be more sensible and honest to recognise now that continued membership of the EU is far more likely to consolidate the unity of the UK than its leaving the EU, and then to give all four nations that make up the United Kingdom a say on whether to accept the deal that the Prime Minister has negotiated or whether to remain in the EU? Of course, that could result in an outcome similar to that in 2016, in which case it would have to be accepted, but we would at least have demonstrated that we had paid some attention to the attitudes and opinions of all parts of the union and that we regarded the stability of the union, which today's debate has so usefully brought to the fore, as something that we not only paid lip service to but really meant.

12.13 pm

Lord Hay of Ballyore (DUP): My Lords, I very much welcome the debate in the House this afternoon. I remind the noble Lord, Lord Hannay, who spoke before me, that this was a United Kingdom vote, not a regional vote. I could point to parts of this United Kingdom that also voted to stay within Europe. Do we treat them differently? I do not think so. The vote, as far as we are concerned, was right across the United Kingdom.

A week is a long time in politics and the uncertainties over Brexit will certainly intensify over the next number of weeks, with our precious union very much at the heart of the storm. The issue of the union has been central to much of the criticism levelled against our Prime Minister. It was specifically cited by many of those Cabinet Ministers who resigned their ministerial posts several weeks ago. They realised that the integrity of the United Kingdom should not be undermined simply to comply with the EU's desire to protect its own single market. Of course, in Northern Ireland, the focus has been on the deal agreed with the EU by the Prime Minister and the so-called backstop, a deal which puts the union, which she professes to cherish, at such grave risk.

These are critical times for our precious union, and we must all act in the national interest. I agree with noble Lords: our union is evolving, and has evolved over the last 100 years. Northern Ireland, Scotland and Wales all have different devolution models, but that should not stop us protecting this union. In Scotland, Scottish nationalists are pushing for another referendum on independence. In Northern Ireland, we know that people use Brexit to frustrate the union. Unfortunately, this Government, and especially the Prime Minister, have allowed the border to be used by some people in Northern Ireland as a political stick to beat her with in negotiating a deal with Europe. That is the tragedy of this whole thing. I have to say to the House, we have been let down by a British Prime Minister who gave us so many promises on the backstop and the border, and then agreed to a deal that certainly creates a major problem for ourselves as unionists in Northern Ireland.

The Prime Minister talked about her beloved union. In fact, at her party conference she talked about her “precious union”. If the Prime Minister really believes in what she says—I believe she does—the integrity of the United Kingdom should be the most important issue for her in the future and in future negotiations with the European Union. We continually said to the Prime Minister that the road she was travelling would leave many issues for the unionist community in Northern Ireland in particular, but also the whole community. I do not think we should allow anybody—Scotland, Wales or Northern Ireland—to find a way of damaging this beloved union.

12.17 pm

Lord McInnes of Kilwinning (Con): My Lords, it is a pleasure to follow the noble Lord, Lord Hay, who correctly reminded us that the question on the ballot paper in 2016 was of course whether the United Kingdom should remain or leave, not constituent parts of it. I would like to begin by thanking the noble Lord, Lord Lisvane, for not only bringing this important issue before your Lordships’ House but, above all, the constitutional expertise he invests in trying to find and take forward a sustainable and workable solution to our imperfect and—as I think we all acknowledge—asymmetric union.

As I said in my own debate on this topic a year ago, above all, and like many in this House, I increasingly find that my unionism drives and underpins my political opinions. Unsurprisingly, in 2014 I voted no, and Scotland remained part of the United Kingdom. My decision in 2016 to vote to remain in the European Union was, like that of many in Scotland and Northern Ireland, more than influenced by my fears for the impact on the union of a leave vote.

My concerns failed to understand that, even for those Scots who voted to remain in the United Kingdom in 2014 and to remain in the European Union in 2016, remaining part of the United Kingdom and avoiding a further divisive independence referendum was far more important. In underestimating that feeling I was not alone. Many in the unionist commentariat in Scotland saw the end of the union coming with a UK leave vote in 2016. It is little wonder, therefore, that Scotland’s

First Minister saw her opportunity on 23 June 2016 to once again start the process of an independence referendum, which she continued by asking for a Section 30 order in February 2017. The Scottish people gave their judgment on that in the general election of 2017 and the Scottish National Party lost half a million votes and 21 Members of Parliament.

I understand the motives of those who wish to see a “big bang” moment to protect our union. However, I am not quite as convinced as others in your Lordships’ House of the need for a constitutional convention or, indeed, a new Act of union. In the excellent debate in this House in December it was correctly identified that further constitutional change could not be top down—something I wholeheartedly agree with. I am not convinced that there is the public consent necessary for a further constitutional convention, or for the referendum that would need to follow a new Act of union to guarantee that consent. I fear that, certainly in Scotland, such a referendum on a new Act of union would not be a calm, dispassionate discussion on the pooling of resources in the UK but rather, once again a divisive and passionate independence referendum filled with fake news.

However, I am not complacent about our constitutional settlement. The Clause 11 debate during the passage of the withdrawal Bill demonstrated that our inter-governmental relations are not perfect, as has the detail of Brexit. Last year, I could speak optimistically of the devolved Administrations’ understanding of the importance of the single United Kingdom market and of the desirability of legislative consent Motions in the Scottish and Welsh Administrations. I am afraid that our intergovernmental relationships were not strong enough to broker that reasonably. That underlines the importance of ensuring that future intergovernmental relations become an arena not purely for debate but for agreement, where the principals do not leave the room and immediately take to platforms for press statements. That might require a statutory basis.

In my opinion, the union—certainly in Scotland—has survived the Brexit stress test so far, but until we properly institute an improved, robust and regular opportunity for proper intergovernmental engagement, I fear that more stresses lie ahead.

12.22 pm

Lord Morris of Aberavon (Lab): My Lords, the House is grateful to the noble Lord, Lord Lisvane, for initiating the debate. The principal organ for maintaining the stability of the union must be the Parliament of the United Kingdom. The role of the devolved Administrations, though important, is complementary. I will give an immediate example—two in fact—where the United Kingdom Government have not strained to fulfil this important role.

The original proposals of the European Union (Withdrawal) Bill certainly did not do so. In its clawing-back proposals—Clause 11 in particular—it ignored what the devolved Administrations had been enjoying for years. As far as Wales was concerned, through the good sense of the Chancellor of the Duchy of Lancaster and Mr Mark Drakeford, agreement was reached. In Scotland, agreement was not reached. There has been

[LORD MORRIS OF ABERAVON]

litigation, referred to by the noble Lord, Lord Lisvane, but the bottom line is the statement of the Scottish Constitutional Relations Secretary that he could not conceive of a situation where legislative consent would be given to any matter from the United Kingdom Parliament on agriculture, trade and fisheries. Perhaps the Minister could tell me what the state of play is now as far as Scotland is concerned on that aspect.

The Agriculture Bill now going through the Commons suffers from the same difficulty and the Delegated Powers Committee of this House has hammered its proposals because, again, they bypass Parliament and the devolved Administrations. The proposals give powers back to United Kingdom Crown Ministers and ignore what has been developed. We in this House will therefore have to return to this in due course. These are recent examples of what the noble Lord, Lord Lisvane, referred to as “imperial condescension”. Nothing seems to have been learned and we are back to square one on this issue.

The next issue I want to raise is whether another independence referendum in Scotland would destabilise the union. I venture to think, perhaps surprisingly, that it might not. I regret that there is no SNP representation in this House. Sinn Féin has a long-standing objection to representation in the Commons; in my role as Attorney-General for Northern Ireland, I discovered that fairly rapidly. Nationalist parties from the time of the Irish Members have had an influence in the Commons well above their numbers. From 1885 to 1906, they dominated Parliament, and the Liberal Government of the day had to rely on them because they had no majority until 1906. The Callaghan Government, in which I played a part, lost their vote of confidence in 1979 by one vote because although the SNP had been warned that turkeys do not vote for Christmas, it pulled the plug on the Government. As a result, it lost nine of its 11 Members.

I am relaxed about whether the SNP gets its second referendum—another once-in-a-lifetime one, it has been called. As an outsider but an interested Celt, I do not think it would undermine the United Kingdom’s situation and perhaps the Scots might enhance our stability by being released from their grouse of democratic deprivation. I would not forecast the result but I would warn the SNP about any economy based on how a sheik in the Middle East turns the tap on oil, given the volatility of its price. Perhaps it should look at the biblical advice of not building its house either on sand or on the product of sand.

I close by remarking that the future must be resolved on a much more basic principle of having a convention, which we discussed in the last debate, to ensure that piecemeal reform is not continued. Rather, we should look comprehensively at the future while understanding the development of the existing and new powers. If we are to have a stable future, a convention is required.

12.28 pm

Lord Bruce of Bennachie (LD): My Lords, across the UK, Scotland and London voted most strongly for remain, which is somewhat ironic given the nationalists’ antipathy towards London and London-based government.

Northern Ireland voted clearly for remain, only to find its hard-line Brexit party tweaking the tail of a Brexit-traumatised Conservative Government. A lot has been said, I think rightly, about Theresa May’s and Jeremy Corbyn’s cavalier disregard for those who voted remain. “You lost. Get over it”, they say, but they have been unable to come up with anything that can unite a majority. When the DUP is challenged for representing a minority in Northern Ireland, it asserts that remain voters are predominantly nationalists and can therefore apparently be discounted—second-class votes.

Membership of the EU resides with the United Kingdom and it is not possible for parts of the UK to be in and parts to be out. I suggest that raises the question as to whether we should ever have sought a simple binary majority, or one that was qualified by the views of the constituent parts of the United Kingdom as well.

During a recent visit to Derry, I was able to see and hear how differences already affect what is located on which side of the border and how people and services operate. Moderate unionists who voted remain are beginning to consider whether the complexities of Brexit might make the prospect of a united Ireland unexpectedly attractive, especially now they see a much more liberal Republic and a frozen conservative Province in the north. The polarisation of Northern Ireland politics has left the Province without a democratic voice. Disillusioned young people at an integrated school that I visited in Derry told me that they thought that violence would return to the Province. I was quite shocked that they were unanimous in their view.

For a long time—the noble Lord, Lord Lisvane, referred to this—many people thought that nationalism could be contained within the European Union or at least under its umbrella. That is kind of logical given that the *raison d’être* of the European Union was to find mechanisms to avoid conflicts getting out of control and leading to war—which has been one of its great achievements.

For many years, the SNP campaigned under the slogan, “Independence in Europe”, so leaving the EU is a problem for it. First, a significant proportion of its voters chose Brexit. Secondly, leaving the UK without the comfort of the EU umbrella could leave Scotland in a cold place, with no prospect of a quick re-entry into the EU. Campaigners in favour of remain have sometimes prayed in aid divergence with Scotland as a threat to the union in simplistic terms. The people of Scotland voted remain by a large margin. Theresa May’s dead deal, something similar or no deal would in many ways be a betrayal of Scotland, or at least an insensitive disregard for the concerns and preferences of its people. Of course, that is seized on by the SNP to make the case for a second independence referendum. “Let’s vote for independence and rejoin the EU”, it says, except it is not that simple. First, the UK is overwhelmingly Scotland’s biggest market. Secondly, however sympathetic the EU may be to Scotland’s warmth towards that Union—in contrast with the SNP’s hostility to this union—Scotland would have to take years and deep economic pain before it could accede to membership, during which time it would be outside both unions.

Surely it is time, Brexit or not, to sort out the mess that the United Kingdom has become and to create a constitution worthy of its name, which guarantees the human rights of everyone in the United Kingdom and accommodates the views and wishes of the devolved Administrations and the regions of England in a legal framework. The Bill in the name of the noble Lord, Lord Lisvane, is a good start. I understand why he asserts that nothing could challenge the sovereignty of this United Kingdom Parliament, but I think that he would recognise that, if it were a matter of a transition to a federal Government, we would eventually need a constitution to which even this House and the other House would have to be subordinated. That is how most modern democracies work. Ours is not working; it is time that we modernised it.

12.33 pm

The Earl of Kinnoull (CB): My Lords, it is a pleasure to follow the noble Lord, Lord Bruce of Bannachie, who spoke with his customary clarity. I, too, congratulate the noble Lord, Lord Lisvane, on securing this important debate.

I shall make just two points. The first concerns arrangements for intergovernmental relations in our union. Our intergovernmental arrangements are completely out of date. The governing document is a 60-page memorandum of understanding dated October 2013. Our Constitution Committee produced a report, *Inter-governmental Relations in the United Kingdom*, in March 2015 and made many recommendations. It produced a second report, *The Union and Devolution*, in May 2016 and made further recommendations. The Government's response to the first report turned up only in January 2017. In the meantime, nothing has happened to the memorandum of understanding, yet since it was published in October 2013, we have had the Scottish referendum, the Scotland Act 2016, the Wales Act 2017 and now Brexit. The landscape has changed and is changing further. Much more power over many more areas resides with devolved structures, yet the Government have not followed up and have ignored the compelling reports of the Constitution Committee. This failure to engage in a calculated reconstruction of how intergovernmental relations work in the union is a very risky omission and action is needed. Can the Minister tell us what is happening and what the timetable is for having new arrangements?

My second point concerns inter-parliamentary arrangements in our union. The EU Select Committee's July 2017 report *Brexit: Devolution* concluded that there was a need for more inter-parliamentary dialogue and co-operation. For Brexit, we recommended regular joint meetings between the relevant committees with responsibility for Brexit-related issues in the Scottish Parliament, the Welsh and Northern Ireland Assemblies, and of course at Westminster. We recommended that these take place for the duration of the Brexit negotiations. We went on to say, at paragraph 298:

"In the longer term, we also see a need for a strengthened forum for interparliamentary dialogue within the post-Brexit United Kingdom".

The Interparliamentary Forum on Brexit was established as a direct result of these recommendations. The forum brings together the chairs of the committees scrutinising

Brexit-related issues in Westminster and the devolved Administrations. In the House of Lords, this includes the EU Select Committee, the Constitution Committee, the Delegated Powers Committee, and the Secondary Legislation Scrutiny Committee. Representatives of the Northern Ireland Assembly of course cannot attend but officials come as observers. The forum has met five times so far and is meeting for a sixth today, here in the House of Lords as we speak. Those at the forum, whatever their views on the union or on Brexit, come together to discuss the Brexit process and the implications for the devolution settlement that flow from it. Participants have been clear that the combination of interesting agendas and the ability to meet and discuss matters with opposite numbers has been most valuable. Today it will discuss the Brexit developments of the past few days and will meet the Minister for the Constitution, Chloe Smith, to discuss intergovernmental relations.

In closing I ask the Minister my second question: does he regard this as a healthy development? Does he think it is a possible template for a necessary formal inter-parliamentary strand of the UK's devolved structure?

12.36 pm

Lord Wigley (PC): My Lords, I thank the noble Lord, Lord Lisvane, for the way he introduced this debate and I dedicate my contribution to the memory of Steffan Lewis AM, who died last Friday at the age of 34. In two brief years in the National Assembly, Steffan had already made a huge impact, not least with the White Paper, *Securing Wales' Future*. That document, addressing issues which face Wales in the context of Brexit, gained cross-party support in the Assembly. Steffan Lewis saw quite clearly that Brexit, particularly in its most extreme manifestation, could have significant negative implications for the future relationships in these islands, partly because of the narrow, inward-looking nationalism that underpins much of the Brexit approach. This contrasts with the civic nationalism which we have carefully nurtured in Wales.

The Welsh nation is not a racial construct. We are a mongrel people, defined not by blood and race but by community, culture and values. Those values underpin an outward-looking set of beliefs which recognises everyone in Wales, whatever their language, colour or creed, as full and equal citizens of our country. Our values as a nation have run through our politics. It is no coincidence that Lloyd George led the fight to establish social security and Aneurin Bevan the NHS. Wales is a nation whose roots are deep in our European heritage. In terms of language, culture, religion and traditions, our identity is European and it is an identity we have no intention of abandoning. It is to safeguard our values, communities and culture that we have aspired to greater political self-determination—to greater independence, if you like. But independence is a relative concept and whereas every nation has a right to independence, it also has a responsibility towards its neighbours and the wider world.

Over the past two generations, Wales has secured a considerable degree of independence. In practical terms, we have our own independent education policies; likewise with roads and housing. We make our own laws and determine our own priorities but we also recognise

[LORD WIGLEY]

that there are matters, such as environmental issues, which we cannot control alone but must be governed in larger units, be that on a world, a European or indeed a British level.

In determining this, the European concept of subsidiarity should always come into play: matters should be decided as close as possible to the communities on which those decisions impact. Today's debate is timely, but one of the real dangers is that we see our relationships as a dipole between Brussels and London, rather than as a multilayered, decentralist structure driven by subsidiarity. In that way, we could easily find ourselves centralising on to a British level decisions that have been systematically decentralised over the past two decades within a European framework.

That is why there was so much grief in Cardiff and Edinburgh when we saw—in terms of agricultural policy, industrial development incentives and procurement rules—what was felt to be a power grab by London. This awoke all the old forebodings and generated unnecessary fear. The real danger is that we put into reverse all the gains we have made—in autonomy, identity, assuming responsibility and developing multilateral cultural links—and that we get sucked back into the vortex of a unified, centralised British state.

To every action, there is an equal and opposite reaction. That, more than any other single factor, is what will drive the movement towards greater independence for Wales and Scotland, if that is what happens. It may well be that new structures can be developed in terms of a federal or confederal state which can appropriately serve nations—and indeed regions—with diverse identities, different challenges and our own aspirations. The Bill of the noble Lord, Lord Lisvane, is relevant in that regard.

Over the past 12 months, during which Steffan Lewis knew of his bowel cancer, he continued his work with bravery and dedication. He refused to let his illness define his life. Only last month, he proposed Plaid Cymru's amendment to the Labour Government's Motion on the withdrawal agreement, spelling out why it should be rejected. To the credit of Labour Members, they recognised Steffan's case and accepted his amendment.

In the wake of Tuesday's vote, MPs across party lines may try to secure a sensible compromise, such as a model based on the UK retaining its customs union and single market relationship with the EU, and accepting the free movement of people, goods and money between the countries of Britain and the 27 EU member states as a way forward. If that is so, it will provide a framework within which Wales, Scotland and Northern Ireland—and indeed England—can develop an evolving relationship, facilitating the maximum degree of self-government to which their peoples aspire, while simultaneously enabling families, businesses and civic society to blossom without the artificial barriers which a blinkered 19th century approach to independence implies.

In conclusion, it is hugely ironic that it is in this context that a key to Britain's future relationship with Europe may be found. It is an even greater sadness

that Steff has not lived to see the relevance of his analysis become centre stage as we contemplate the future relationships of the nations of these islands.

12.42 pm

Lord Empey (UUP): My Lords, I too congratulate the noble Lord, Lord Lisvane, on securing this debate. I also thank him and his colleagues in the Constitution Reform Group, including the Marquess of Salisbury, the noble Lord, Lord Hain, and others. They have at least been working on a growing problem which, by and large, has not been strategically addressed.

As we have sat in this House over the last few years, a number of noble Lords on the Front Bench have brought forward one constitutional Bill after another. We had several Welsh Bills and Scottish Bills as well as ones pertaining to Northern Ireland. At the other end of the Corridor we had English votes for English laws; we had referenda, which sometimes seemed to pop up without any real definition of when they should be introduced; and we had had a variety of proposals to reform your Lordships' House. The underlying common denominator of all this is that there is no overarching plan. It is haphazard, and driven by events and pressures. There is no strategy involved in any of it. At least the noble Lord, Lord Lisvane, and his colleagues have been attempting to do something about that—not that I accept everything they say; I do not. At the same time, they are at least sitting down and making an effort. Other people, including on the committees of this House and in Parliament, as the noble Earl, Lord Kinnoull, pointed out, have also made contributions.

However, the fact is that we have no clear idea of how things are to be done. For instance, there is no plan for how the devolved regions should account for the money that is provided to them by central government for their actions. There is no accountability. They can decide to contribute views or not. I said in another debate that it was like a giant ATM machine: devolved Ministers can draw out money, but they do not have to make any contributions on what they have done with it. I would like the Minister in his reply to address that.

Then we have the Sewel convention and other things that have developed. In addition, of course, we have the catastrophe back at home, with no devolved Government, no direct rule Ministers—nothing. It is all completely absent. If the backstop proposals were to be implemented, we would be in even worse shape, because we would have no representation in Europe as well. Talk about a democratic beheading—we have a clear example of it there.

The noble Lord, Lord McConnell, referenced the Joint Ministerial Committee. I have sat on that body, and I have to say that Whitehall Ministers turn up as if it was a chore. In other words, there is no appetite for it whatever. They turned up because they had to, and they normally sent not their number one but their number two or number three along to represent them. They had no interest in it—it was a nuisance—and that says it all. That has to be fixed, and it will not be fixed unless there is an overall plan.

The other thing that concerns me is referenda. We have had a number of them over the years. The two big ones on Europe were brought into being because of

internal disputes within the two major parties. We had a referendum on AV, and referenda in Scotland, Wales and Northern Ireland. Again, it is all haphazard—there is no plan. A number of people are saying that we need another referendum to get out of our present difficulties. Take care; it is a very divisive thing. You would not know what the result of another referendum might be, and it could set up the pieces for a further Scottish referendum. I do not see how you could make a coherent argument against a second Scottish referendum if you have one on Europe again. There will also be the question about what you have on the ballot paper; it could be divisive and very unrealistic. You could have a border poll and a Scottish referendum both driven by a further referendum on our EU membership—so I hope that Members will consider that carefully.

There must be a serious discussion on the constitutional future of this country and its structures, not a continuation of the haphazard Bills that come before us, one after the other.

12.47 pm

Lord Hain (Lab): My Lords, I am delighted that my noble friend Lord Lisvane secured this debate; I referred to the Act of Union Bill and its parent, the Constitutional Reform Group, in my speech in your Lordships' House on 13 December. But what is the case for the union now, which is under threat from Brexit in both Scotland and Northern Ireland?

The former Labour Prime Minister Gordon Brown set out a compelling vision in rejecting Scottish independence, both in a speech on 10 March 2014 and in his book *My Scotland, Our Britain*. He rightly insisted that the issue is not simply about patriotism: both pro and anti-independence Scots could claim to be equally patriotic. Instead, he argued, the incontrovertible advantage of modern Britain is its 20th-century innovation: the pooling and sharing of risks and resources across the whole of the United Kingdom to ensure common welfare and decent standards of life for all citizens, regardless of where you live, through common, UK-wide old-age pensions, common UK social insurance—sick pay, health insurance and unemployment insurance—common UK child and family benefits, a common UK minimum wage, and a UK system of equalising resources, so that everyone has the same political, social and economic rights, and not simply equal civil and political rights.

With around 40% of UK GDP concentrated in London and the south-east of England, separatists have no answer to the great benefit of the United Kingdom: redistributing resources from its better to its less well-off parts and, through a UK-wide minimum wage and tax credits, guaranteeing a minimum family income and stopping regions and nations undercutting each other, thus preventing a damaging race to the bottom between the nations and regions within the UK.

Although England remains highly centralised and the English question has not been properly addressed, as it should be, the 1973 Kilbrandon royal commission made a convincing case against a separate English parliament which has never been rebutted. Such a federation of four units would be,

“so unbalanced as to be unworkable. It would be dominated by the overwhelming political importance and wealth of England”, with,

“Scotland, Wales and Northern Ireland, together representing less than one fifth of the population”.

Instead, I believe in a modern federal United Kingdom, which is set out in the noble Lord's Act of Union Bill. English interests could be better protected through regional devolution outside London—again, I suggested how that might be done in my speech on 13 December.

We should be wary of devolution in the form of “neoliberal outsourcing”, in line with the right's ideological objective to shrink the Whitehall state, offloading as much responsibility as possible to individual citizens to fend for themselves, outsourcing to private providers and “subcontracting” tax and spending to devolved legislatures and cities. In that respect at least, the outcomes if not the ideologies of nationalism and neoliberalism can converge because, under both, the redistributive power of the United Kingdom state is either severed or severely stunted.

The great majority of individuals need the state on their side but not on their backs. They need active government which intervenes to curb market excess and market power. They need a social context to ownership. They need the assistance of strong communities. They need the solidarity which comes from acting collectively to exercise influence over the decisions which shape their lives and to experience the fulfilment of active citizenship. They need power to be decentralised and fairly distributed—which is precisely what the Act of Union Bill provides for. And much needed it will be in the current Brexit mess, not least to help hold our country together.

12.52 pm

Baroness O'Neill of Bengarve (CB): My Lords, we are indebted to my noble friend Lord Lisvane for a timely broadening of the debate. Nevertheless, I shall talk mainly about Northern Ireland because it seems to me the most urgent. We are in great danger of flogging dead horses at present, because we are not too sure which horses are still alive—so be it.

The backstop is of course the fundamental feature of the debate on the Northern Irish situation at present, but in the background there is the Belfast agreement and the commitment of all parties to the principle of consent in any constitutional change. This is a treaty obligation that both the United Kingdom and the Republic of Ireland have accepted, and it has been fundamental to the peace process, which the EU has supported in many ways across, now, more than 20 years. If the backstop were activated, that would change the constitutional position by, in effect, excluding Northern Ireland—it is hoped, only temporarily—from the UK.

In very recent exchanges with the United Kingdom Government, the EU has indicated an aspiration to ensure that this situation does not arise and that, if it does, to work towards reaching an agreement on trade and, thereby, on the Irish border. That is admirable and realistic, but the phrasing of the commitment is still asymmetric. In their letter of 14 January—this Monday—to the Prime Minister, available on the

[BARONESS O'NEILL OF BENGARVE]

Government's website, Mr Tusk and Mr Juncker reaffirm their aspiration to avoid the backstop. So far, so good. They write:

"The Commission can also confirm the European Union's determination to replace the backstop solution on Northern Ireland by a subsequent agreement that would"—

note the hypotheticals—

"ensure the absence of a hard border on the island of Ireland on a permanent footing".

That is baffling. If their determination is shared by Her Majesty's Government and the Republic of Ireland, why can the commitment not be made by all parties at this stage?

I realise that it has been affirmed time and again that future arrangements can be agreed only once the withdrawal agreement has been completed. But does this make any sense? Yes, to be sure that future arrangements can be implemented only at an appropriate time. But putting them beyond discussion and agreement and allowing that to undermine the negotiation of a withdrawal agreement reminds one of publicly insisting on red lines before negotiating. Surely there is too much at stake to allow this rigidity to derail agreement.

I have family both north and south of the Irish border. My family, including those who have served in this House and the other place, have long been liberal unionists so I am not tempted to support the DUP, least of all some aspects of its policies. I know in my bones what the loss of peace and good order would mean. If change in the Northern Ireland constitutional status happened by consent, in accordance with the Belfast agreement, so be it. I would support that, but I am at a loss to understand why the EU negotiators wish to risk the peace agreement they have supported for many years by allowing for the possibility of profound constitutional change that is not consented to as the Belfast agreement requires. Can the Minister shed any light on that by explaining why the Government have not managed to convey to the EU negotiators that this is effectively unconsented constitutional change?

12.56 pm

The Duke of Montrose (Con): My Lords, I join other noble Lords in thanking the noble Lord, Lord Lisvane, for securing this timely debate. In the past week, the business of the House and the other place has been taken up almost entirely by considering fairly fundamental aspects of the governance of this country. Some may think that this has been fine and has not caused great disruption, but considering that it has meant reviewing all possible methods of bringing about constitutional change, it was bound to give new life to all the arguments about further reforms in our constitutional settlement.

As emphasised by the noble Lord, Lord Empey, that is particularly true for Scotland. This subject has a long history, of course, in which I always take an interest even if for no other reason than so many of my direct ancestors have been personally involved. Depending on your view, my family can be either credited or blamed for much that has happened in Scotland throughout her history. We were one of the signatories of the Declaration of Arbroath in 1320, resisting the pretensions of Edward I. A little later, a member of my family

known as the 1st Marquis was one of the first signatories of the Scottish Covenant in 1638, objecting to the impositions and taxes of Charles I. Then, in 1707, as President of the Council in the Scottish Parliament, we oversaw the passing of the Act of Union and the financial and economic benefit that stemmed from that. Even more recently, I could consider my grandfather, who got into a spot of bother in 1932 for suggesting that Scotland should benefit from an element of devolution similar to what we have today.

So I have followed in great detail all the devolution legislation that has come through this House. Once the original Scottish devolution Act had been passed, those who put it together adopted as their mantra that devolution is not an Act of Parliament but a process. From day one, the practical rules have been subject to tweaks, adjustments and memoranda of understanding. No doubt this has been a great boon to the civil servants involved and those in the Scottish Government for their daily workings, but it has probably worked quite well even for the Scottish Parliament. However, what I feel has been missing is any chance for the UK legislature to consider whether these things suited the settlement that Scotland had within the UK and the interests of the UK Parliament at the time they were introduced. We have of course considered them when we have periodically reconsidered the Scotland Act, but that has been very much later.

There are a number of issues over which there is current contention. I wonder if there is any way that my noble friend the Minister can give us an indication of the grounds on which the Government are pursuing the case in the Supreme Court. This seems to be a question of the competence of the Scotland Act 1998 as regards the devolution of powers over agriculture and fisheries that were, and still are, the responsibility of the European Union. Section 29(2)(a) of the Act states:

"A provision is outside that competence"—
of the Scottish Parliament if—

"it would form part of the law of a country or territory other than Scotland, or confer ... functions exercisable otherwise than in or as regards Scotland",

which at the present moment still applies to both fisheries and agriculture. For the outcome, we will have to wait for the judgment of the court, but the noble Lord, Lord Lisvane, has put his finger on a vital component which is needed: we need respect from both sides and it applies in both ways.

1.01 pm

Lord Armstrong of Iliminster (CB): My Lords, I should like to add my voice to those of others to congratulate and thank the noble lord, Lord Lisvane, for giving the House the opportunity to debate this Motion. The subject is an important one. In all the discussions and debates about Brexit, we have perhaps not sufficiently addressed the consequences of Brexit for the integrity of the United Kingdom.

The problem of retaining an open border between Northern Ireland and the Irish Republic when that becomes the only land border between the United Kingdom and the European Union has of course received a great deal of attention. The Prime Minister has been resolute in the pursuit of arrangements to

ensure that the status of Northern Ireland as part of the United Kingdom should be preserved and ensured. But the arrangements are complex and to some extent artificial, as well as controversial, and of course they are part of an agreement which has now been overwhelmingly rejected by the House of Commons.

I follow the noble Baroness, Lady O'Neill, in reminding the House that Northern Ireland is different from the rest of the country in that the Good Friday agreement, like the Anglo-Irish agreement of November 1985, in which I played a part, guarantees that there will be no change in the status of Northern Ireland as part of the United Kingdom unless and until a majority of the people of Northern Ireland want it and decide to vote for it. Whether that time will ever come, none of us can say, but it seems that it is likely to come sooner than it otherwise might when the United Kingdom is going to leave or has left the European Union.

Then it has to be remembered that in Scotland there was a majority for remaining in the European Union in the referendum of June 2016. That was not just an echo of the "auld alliance" between Scotland and France. It could become a significant factor in any future referendum on Scottish independence, although like other speakers I should be a little surprised if that took the number of supporters for independence over the threshold of 50%. Scotland would find it a cold place to be outside the UK and the European Union.

I am not at all sure that I wish to enshrine these matters in a written constitution, which is like a great statute. Such a statute would become like a large building which cannot be changed when the conditions outside it or the requirements being made of it change. We need to go rather carefully when trying to freeze or fossilise the existing constitutional arrangement because it then becomes in a sense a dead thing and unable to adapt to changes in life, changes in requirements and changes in circumstances outside. I approach that with a certain amount of scepticism.

The union that is the United Kingdom was created and developed by successive changes made over centuries. It was not set out in advance in a written constitution, but has developed in response to the needs of the day. The United Kingdom has been a source of strength and benefit to all its constituent parts, as one can see from the number of Scottish people who have made such a large contribution to our public and political life. It has achieved a strength, standing and an influence in our relations with other countries which none of the constituent countries would have had on their own. It has also remained a steady beacon of freedom and democracy and of political stability and maturity—living together, as it were—to which other countries have looked with respect and envy. We take it for granted because it has always been there for us. However, there are times, and the present is one of them, when while looking at our constitutional arrangements, we should be counting our blessings and actively seeking to protect and preserve them.

1.07 pm

Lord Adonis (Lab): My Lords, the House is pleased that the noble Lord, Lord Young of Cookham, is replying to this debate as it holds him in very high regard.

The only surprising thing is that the noble Lord finds it possible to continue being a member of a Government who, in Brexit, are systematically destroying his own life's work. If I may say so, he gives a whole new meaning to the phrase "semi-detached". He appears to be attached to this Government in the way that the moon is attached to the sun, but we are none the less glad that he is speaking today. That is because he harks back to the days when Conservatives were indeed conservative and observed the dictum of Edmund Burke that:

"A state without the means of some change is without the means of its conservation";

but his underlying belief was that it should be the minimum change necessary to preserve a state which, by a long process of organic formation, works pretty well.

In Great Britain—Ireland is entirely different—that is pretty much the way we have handled constitutional reform in this country since the Napoleonic wars, which finally ended Jacobitism and the threat to the Hanoverian settlements. But Brexit has brought an end to all that because for the first time in modern history, the Conservative Party has stopped being conservative and has in fact become a revolutionary party that is seeking to undermine the entire fabric of our existing constitutional settlement, with an impact that will go well beyond Brexit. As other noble Lords have said, it will probably threaten the union with Northern Ireland and possibly in due course the union with Scotland too. It is perfectly conceivable that if Brexit proceeds, England will be a single unitary state within the lifetime of many of us present in this Chamber. Of course, that would make sense philosophically because it is the expression of an extreme form of English nationalism that we have not seen in recent history.

The question that is preoccupying Parliament at large at the moment is how we can stop that process democratically. It looks to me as though that will take the form of a referendum, in which I hope very much that the British people, having seen the kind of Brexit on offer and the threat it poses to their way of life, will actually vote to remain in the European Union.

However, the underlying social pressures and tensions that have led to Brexit are partly to do with the inadequate aspects of our constitutional arrangements and the way they deal with political and social issues. They need reform, and a good Burkean would be paying serious and particular attention at the moment—as the noble Lord, Lord Lisvane, has done—to the big issue of the government of England. While we have had significant and beneficial reform in the government of Wales and Scotland and have brought an end to a virtual civil war within the United Kingdom in Northern Ireland—I pay huge tribute to John Major, Tony Blair and a generation of politicians in Ireland and Northern Ireland—the government of England has not undergone substantial reform of any kind since Redcliffe-Maud and the big reforms to county and local government in the early 1970s. It is not working well at all.

I will make three brief points on what I believe should happen. We need to reinforce substantially the devolution moves that have taken place in recent years. The single best reform to the government of England

[LORD ADONIS]

in the last 20 years was the creation of the mayoralty of London—a strong executive office with substantial devolution of funding and autonomous powers, accountable to an elected assembly—which has transformed the government of London. The quality of our public services in London, particularly our infrastructure and especially transport, have been changed for the better beyond all recognition because of the introduction of this very welcome measure of devolution. We need the same in all the city regions of England and in the wider regions, and it needs to be done on some kind of agreed basis. The noble Lord, Lord Wallace, referred to Yorkshire. There is at the moment a massive stand-off between the Government and local authorities and responsible leaders in Yorkshire, including the mayor of South Yorkshire, on this very issue. It needs to be resolved, city region by city region, with substantial devolution taking place.

Secondly, on finance, you cannot divorce devolution from money, in the way that you can never divorce government from money. The person who holds the budget is the person who wields the power. A good part of the reason why the settlements in Scotland, Wales, Northern Ireland and London have been so successful is the substantial devolution of funding. Ever since the settlement that replaced the poll tax with this extremely inadequate council tax, which now is pretty much inoperable as an effective property tax, there has not been an effective funding base for local government.

Thirdly, we need properly to codify this in a new federal constitution, which I think should involve a senate replacing the existing House of Lords. The noble Lord, Lord Lisvane, said that we suffer from imperial condescension. I do not believe that that is a complete explanation.

Baroness Stedman-Scott: Please could the noble Lord bring his remarks to a conclusion?

Lord Adonis: I am bringing them to a conclusion.

The Government in London also suffer from colonial complacency towards England, and we suffer from ideological idiocy in respect of Brexit. Both undermine the body politic and need reversing as a matter of urgency.

1.12 pm

Lord Warner (CB): My Lords, I too congratulate the noble Lord, Lord Lisvane, on such a timely debate. I have been exposed to constitutional issues for a long time as a senior civil servant, special adviser, Minister and Member of this House. I have always had reservations about our unwritten constitution, once described by the noble Lord, Lord Hennessy, as the “good chaps” system of government. I thought we were moving away from this with the constitutional changes introduced by the new Labour Government after 1997, in which I was involved.

It is worth reminding ourselves what a Government can achieve in these areas when they put their mind to it. Devolved Administrations were introduced, although regional assemblies for England were not pursued; a

Human Rights Act incorporated the European Convention on Human Rights into UK law; freedom of information legislation reduced Whitehall’s secrets; most of the hereditary Peers were removed from this House, although our functions remained unchanged; and stronger oversight of elections was introduced. For a while it looked as though this programme would take the UK forward on a reasonably agreed basis, but Brexit has shown otherwise. Enabling major changes to international treaties through populist referendums has exposed our representative parliamentary democracy to serious dangers. Until the last 48 hours, Parliament has proved incapable of stopping two misguided Conservative Prime Ministers seriously damaging our country through vain attempts to unify their own political party. The result was well captured by a leader article in the *Economist* on 22 December, which commented on how,

“a rich, peaceful and apparently stable country can absent-mindedly set fire to its constitutional arrangements without any serious plan for replacing them”.

That seems to sum up pretty well where we have managed to get to.

We have to start considering the major constitutional weaknesses exposed by the whole Brexit fiasco. We badly need to reshape the current constitutional settlement and the relationship between the centre and the nations and regions. We need one that includes much more effective curbs on the Executive. For a start we need to reconsider the size, functions and character of both Houses of Parliament and to better define their relationship both to the Executive and to the devolved Administrations and English regions—a sadly neglected area. We now have no effective Government in Northern Ireland, a restive Scottish Government with independence still on its mind and no consistency of approach to major English city regions. Reforming the functions, composition and size of this House is long overdue. We should be changing it to an indirectly elected and partially appointed senate with a strong regional and nation component.

The pressure for some kind of broad-spectrum constitutional debate seems inevitable. The more we can do to generate that, the better. This debate will need to involve all parts of the UK and to consider the relationship between government at all levels—UK, regional and nation, and local. The neglect of local government in England in particular is a disgrace. Some new forum to begin work on this agenda is badly needed, because I cannot see either of the two main political parties in their present state tackling an agenda of this kind.

1.17 pm

Lord Rogan (UUP): My Lords, I also congratulate the noble Lord, Lord Lisvane, on securing this most timely of debates. He brings a depth of knowledge to your Lordships’ House and is also a fellow Celt, which adds to his appeal. I agree with the contention implicit in the Motion before us today. But Brexit was destined to pose a perceived threat to the stability of our precious union because some nationalists were bound to use it for that purpose. The Scottish National Party has set the bar predictably low. But against the expectations

of many, I argue that one of the few positives of the Brexit process so far—I say this as an outer—is that it has strengthened the union.

Further, I believe that Northern Ireland's status as a valued component part of the United Kingdom has rarely been more secure. The debate around the so-called backstop to avoid the threat of a hard border between Northern Ireland and the Republic has been passionate. The issue remains unresolved, but I do not have time to dwell on its finer details.

However, I take grave issue with those who claim that Brexit poses a threat to the hard-won peace on the island of Ireland. Such statements are not only wrong but opportunistic and insulting. The backstop debate has led many parliamentarians, both in your Lordships' House and in the other place, to speak up for Northern Ireland, defend the Belfast agreement and remind those in other parts of the United Kingdom of the right of the people of the Province to self-determination. This has been very welcome, and I am grateful.

In contrast to Scotland, there has not been a constant demand in Northern Ireland for a referendum on our future within the United Kingdom. Yet many nationalists by definition still want a united Ireland and are perfectly entitled to that opinion. But most people, from both unionist and nationalist backgrounds, are more interested in Brexit and share a desire for a devolved Government to be restored to Northern Ireland.

It is a constitutional outrage that this month marks two years since the Northern Ireland Executive collapsed. In the intervening period, local people have been left without accountable Ministers taking decisions on their behalf. Our schools and hospitals, along with much else, have been left to spiral into decline. Your Lordships will accept that no Government, Labour or Conservative, would allow this to happen in any other part of the United Kingdom. So why is it allowed to happen in Northern Ireland?

We who live there deserve so much better than this. Our children are entitled to receive the best possible quality of education, delivered in properly funded schools. For two years, they have had to settle for second best, with parents and teachers often having to dip into their own pockets to pay for materials. The sick and the infirm are entitled to receive the best possible quality of healthcare, provided in properly funded hospitals. For two years, they have had to settle for second best, as waiting lists have lengthened ever further.

There is a widely held view that Her Majesty's Government will make no further efforts to restore devolution in Northern Ireland until after the Brexit deadline on 29 March. I suspect that the Government's dependence on the Democratic Unionist Party to keep them in office and to get Brexit through is not unrelated to that. This was clearly evidenced last night in another place, to the DUP's obvious delight.

However, I ask the Minister directly to convey my message to his colleagues, in his characteristically polite manner. The Brexit process is a mess—I do not need to remind the Minister of that. As a result, there are growing rumours that the Government will have no option but to request an extension of Article 50 from the European Union. I believe this scenario will become

more apparent in the coming days, when Members of Parliament gather to debate and vote on new ways forward, almost certainly including fresh negotiations in Brussels, which will require yet more time. Should an extension of Article 50 be deemed necessary, I implore Ministers not to use this as an excuse to further delay attempts to restore a properly accountable Northern Ireland Executive.

Initial suggestions were that the Article 50 extension would be until 1 July. This morning, I read several reports that it could now be until the end of this year or even beyond. The people of Northern Ireland cannot and should not be expected to wait any longer for a restoration of devolved government to return to the political agenda. Otherwise, the warm words of Ministers, in your Lordships' House and elsewhere, about how much they supposedly value Northern Ireland's place in the Union, will, I fear, blow cold.

1.22 pm

Lord Dykes (CB): My Lords, it is a great pleasure to follow the noble Lord, Lord Rogan, and I thank him for his wise words. Reflecting on these matters, as one often does, after 27 years in the House of Commons and seven years in the wilderness—as they call it nowadays—and then coming into your Lordships' House in 2004, I have become increasingly depressed by the deterioration of the quality of British politics and British party politics in making decisions to help the citizens of this country. It started, sadly, with Margaret Thatcher, although at least she supported the single market in the European negotiations, even if it was partly because she thought it an important business matter—fair enough—and did not necessarily support its other aspects. More recently, I have witnessed the unbelievable deterioration of politics, with the catastrophe of the Brexit result and the Government's handling of it.

I am grateful to the noble Lord, Lord Lisvane, for introducing this debate today and making such excellent and wise suggestions about future possibilities of the federal union type. I look forward to seeing his Bill flourish.

This matter is so severe now in this country because we cannot get agreement between the parties on any substantial matter—we cannot really get agreement on anything. Now, at long last, Theresa May is beginning the exercise of asking to discuss these matters with the other parties—which she should have done ages ago—because we have reached a huge impasse and have no solution. That is the background.

For many years now, there has been no agreement on anything in British politics, including party funding and changing the voting system from the crude, primitive first past the post system to a PR system, as most countries in Europe have. I live in France as well, which is an exception. There, they have the two-round system, which mitigates the tyranny of the first past the post result.

I welcome the presence of the noble Lord, Lord Young, on the Front Bench today to give us the wisdom of his answers and to make constructive suggestions for the future. The situation is very grim indeed.

[LORD DYKES]

If the Whips had allowed me to speak for 15 minutes today, I would have spent five minutes on what the noble Lord, Lord Adonis, said, and five minutes on what my noble friend Lord Warner said. I thank them for their speeches. However, in the four minutes left to me, I will conclude with some comments on their observations.

We have to start now to reach agreement in this country at long last. Can Mrs May do it? I was astonished—and said so at the time; I am not being wise after the event—when, immediately after the referendum result, she said, “Brexit means Brexit”. Given her authority, psychologically, as a new Prime Minister, and one without a general election result but rather elected by her own party’s members, she could have explained that it was a complicated matter. She could have suggested going back to discuss how we handle this with all the parliamentary organs and parties, and with everybody in the country. She could have said that we needed a full and proper analysis of the Brexit result. It was, after all, an advisory referendum. Even though Cameron promised that he would insist on carrying it through, that did not apply to the subsequent Prime Minister.

Then, following the election on 8 June, the Prime Minister lost the mandate to carry on with the Brexit negotiations but said that she would carry on in a totally artificial and provocative combination with the DUP, which is, I am sad to say, one of the least popular parties in the House of Commons. That party is based on Protestant extremism and the denial of women’s rights, for God’s sake; it is amazing that Mrs May even considered linking up with it just to provide an artificial majority. In a country with a written constitution, that would surely have been declared inadmissible by the augurs of the state who decide on constitutional propriety. But we do not have that. Instead, we have party, constitutional and parliamentary anarchy.

We must break through that anarchy, and we now have the opportunity to do so, in resisting Brexit and probably having a second referendum if Parliament itself cannot decide finally. Perhaps the public would accept that, and we would then have a chance to restore the quality, value and valour of the British political system in England, the main country, and in the devolved parts. If not, this anarchy and chaos will continue, and we will continue in a downward spiral into I know not what. I hope that will not happen.

1.27 pm

Lord Judd (Lab): My Lords, this debate has demonstrated just how timely and important it is that the noble Lord, Lord Lisvane, introduced it. We should all be grateful to him for that. The debate so far has emphasised that we are in a bit of mess with our constitution. There has been a lot of piecemeal, pragmatic activity in our recent history, but where has been the sense of strategy? What is the objective towards which we are working? Where is the road map?

I have an overriding conviction that the most challenging aspect of political life is that we live in a world that is totally interdependent. The challenge for government and political leadership is to come to terms with that

and to find a way in which we enable the British people to play a constructive and full part in meeting that reality. It seems to me that anything else is escapism from fundamental reality. I also accept that, in the impersonal and technological age in which we live, in which the very thought of global interdependence is intimidating to so many people, there is a yearning for identity. What has gone wrong is that we see these two things in conflict. They are not. We should encourage a sense of identity and look for ways in which people can find their identity.

The next challenge is for leadership to explain that there is no way we can find a successful part in the world, or have a stable world, simply on the basis of identity. We have to co-operate, and the challenge now is to see how these people with different identities come together and work in the interests of humanity. That is the challenge which has been brought home by our agonising over Europe.

What is this identity? We have to be honest with ourselves. I am conscious and glad that I am a Scot and English. My mother was a Scot and my father was English. It is interesting that they came together in an international context. They always said that learning to bring their two cultures together in their personal life was part of understanding the challenge I have just described.

I come down in favour of a convention on our constitution in which we can give strategic consideration to all these matters and see how far what we have shapes up to the challenge and how we might make it better. I know that people who look at and talk about this matter have an anxiety—it has come out in the debate—first, about the English dimension and the fact that the English, cussedly, do not seem to have an English identity and, secondly, that England is so large. A regional approach that gave real significance and political structures to regions within England would help resolve that issue.

Living in Cumbria for the past 25 years—having been very much part of the south-east before that—has demonstrated to me that people have a strong Cumbrian identity which can be related to a northern identity. These are the kinds of issues which would come out, and with which we could begin to grapple, in a convention.

I end with an anecdote. Immediately after the referendum my younger grandson, who was then 13, coming up to 14, rang me in an activated frame of mind because they had had in his comprehensive school a mock referendum and 80% had voted in favour of remain. He was struck by this and said to me, “Grandpa, I want to ask you a question. Was your mother Scottish?”. He had not known her; she had died before he was born. I said, “She certainly was Scottish”. She had become very much part of England during the war and so on, but she was Scottish. He said, “I thought so. Will you give me a promise that if Scotland goes independent and remains committed to staying in the European Union you will immediately apply for dual nationality?”.

Baroness Barran (Con): Perhaps I might ask the noble Lord to finish.

Lord Judd: I accept that. Thank you.

I thought about it a great deal and decided that I would have no hesitation in such a situation in applying for dual nationality. We cannot escape the interdependence.

1.34 pm

Lord Chartres (CB): My Lords, the noble Lord, Lord Lisvane, recalled the irritation of Governments when Parliament entered a kind of seminar state. However, I have found this seminar immensely instructive and have learned a great deal.

I follow the noble Lord, Lord Judd, on the question of identity. The Motion refers to stability but, as we all know, we face a time of huge instability—not only the political instabilities of which we are all aware but a planetary instability. This is the first generation of people who have incontrovertible evidence of how much damage is being done to the planet and perhaps the last generation which will be able to do anything substantial about it. So we are facing not only political instability but planetary instability.

One of the forces making for instability is a reassertion of national identities—an immensely powerful elemental force. For example, it is a fact of great significance that the former subjects of the Soviet empire asserted themselves against its power as peoples with particular histories, loyalties and allegiances and not in the name of some abstract concept of individual rights. This widespread search for identity—movingly evoked by the noble Lord, Lord Wigley, and referred to by the noble Lord, Lord Judd—has surfaced in the Brexit debate and in the difficulties faced by the EU in applying the west European model to the liberated countries of eastern Europe.

I agree with the noble Lord, Lord Judd, that in our own islands the resurgence of national identities in Scotland, Ireland and Wales, which preceded Brexit, has had consequences which have enriched our life as a United Kingdom. The various devolution measures may have been piecemeal but they were a response to the new reality. I agree with other noble Lords who have spoken that this leaves us with the need to face the consequences of this huge elemental force for England.

I was Bishop of Stepney at the time of the communal riots in the East End when people were going around insisting on the need to respect the culture of British Bangladeshis. In one school I was confronted by a furious teenager who said, “What’s my effing culture then, Bish?”. Your Lordships can imagine that these words have reverberated and stayed with me over the years. He felt a real sense of cultural loss and poverty which did not dispose him to tolerance but rather to lashing out. You cannot exorcise the evil of hatred of the other by creating a cultural and spiritual vacuum. You have to recognise its reality and build institutions around it which allow it to express itself in a constructive way. If we are to live harmoniously and creatively together in a genuinely pluralistic culture, we have to recognise the power of shared identity and familiar customs in our common life.

As other noble Lords have said, the devolution project must be extended to England, with a renewed attempt to re-localise decision-making, especially now

in the light of the experience of the referendum campaign, which revealed how many people feel marginal to an overcentralised, remote political process.

1.39 pm

Lord Balfe (Con): My Lords, I add my thanks to the noble Lord, Lord Lisvane, for initiating this debate.

My overall conclusion is that there will be no effects of Brexit other than it being weaponised by individual political parties for whatever they see as their own advantage, but I believe there will be unforeseen consequences of Brexit which may now be coming to the surface. All my political life, devolution has been an issue. I began in the middle 1960s. Gwynfor Evans had been elected as a Welsh nationalist Member of Parliament and in November 1967 Winnie Ewing became a Scottish National Party MP in a by-election caused by Harold Wilson putting Tom Fraser into the chairmanship of the North of Scotland Hydro-Electric Board, having learned nothing about losing by-elections from Lord Sorensen. Winnie Ewing won. She went on to have a long and distinguished career in Europe and became known as “Madame Ecosse”. I say that by way of background.

I am not particularly a fan of devolution. I take a very similar view to Gordon Brown about the advantages of countries and nations working together. That is one reason why I am a strong supporter of the EU. However, I also counsel people to believe that the people who voted in the referendum were not concerned about the United Kingdom. In East Anglia, they were concerned about immigration, taking back control and what Brussels might do to them. As an active campaigner in the referendum debate, I did not hear Scotland or Wales mentioned on a single occasion.

People have mentioned our precious union. That is rather like the special relationship. We often mention it here, but you never hear it mentioned in Washington. I am afraid the precious union does not play to the gallery in East Anglia at all. As far as people there are concerned, Scotland is a very different country, as are Wales and Ireland.

Nobody seems to have quite twigged to the fact that there is a big difference between Scotland and Ireland over Brexit. The difference is simply this: one day there will be a vote, and if Ireland votes for reunification, Northern Ireland will automatically become part of the European Union. It will not need to apply because it is covered by the German Democratic Republic convention that a country that unites itself peacefully will have automatic entry. If the island of Ireland united, it would join the EU instantly. It could not be stopped under the treaties and the way the EU is structured. Scotland would have a very different perspective. As my friends in Madrid will tell you, it would be a long and difficult negotiation because Madrid, which does not recognise Kosovo, for instance, is not going to set any precedent that might damage its internal cohesion, which is as fragile as ours. That is possibly one of the unforeseen consequences.

I would like to see a greater sense of solidarity in the United Kingdom. We seem to spend all our time talking about devolving and getting away from each other. We will soon be the most overgoverned nation

[LORD BALFE]

in Europe. At the moment, that trophy is held by Belgium, where I live part of the time. All I will say is that for every layer of government, there is an added layer of confusion, so on the settlement, let us settle down and leave it for a time because nothing is to be gained from constantly meddling with it. It may need tidying at the edges, but I do not think it needs fundamentally looking at again.

My final word is to a party not represented in this Chamber. I wish that the other parties in Northern Ireland would get together and get the Administration in Northern Ireland up and running again. It is very difficult to treat Northern Ireland seriously when you see parties deliberately stopping the development of the democratic process there. If they believe in Ireland, I ask them to respect the people of Ireland.

1.44 pm

Lord Hastings of Scarisbrick (CB): My Lords, I also thank my noble friend Lord Lisvane for this vital discussion. The Brexit settlement, whatever its final nature, has had to include discussions about Gibraltar. It is technically outside the United Kingdom, but the Gibraltar discussions have an impact on Guernsey, Jersey and the Isle of Man. The attitudes and approaches of the United Kingdom Government or, more correctly, Her Majesty's Government, have an implication for territories where Her Majesty remains sovereign and Head of State. It is not just a fact of the nature of our unwritten constitution; it is also about the nature of the constitution that we display beyond the borders of the United Kingdom to the territories where Her Majesty is sovereign.

In this Parliament—certainly in another place—we are used to what might be called disputatious debate, where things can be aggressively said across the Chamber, one to the other. It can be extremely distracting, and the tone of how that debate is conducted has affected whether we believe that this United Kingdom will hold together, which has wider implications. It could be said that this Brexit process has caused distracted debasement of our national political order. The tone of what should have been the representation of the best of British democracy, as seen abroad by Her Majesty's other territories, has instead been a dogfight of refusals and an inability sometimes to accept and consider compromises in the national interest or to hear one another through. It is even possible that we might suffer the greatest broken promise of Brexit: based on party arguments, Westminster could be seen as untrusted and incapable of serving the national interest. I am sure that is not a model that Her Majesty would wish her other territories to follow, given that we set them free in the 1950s, 1960s and early 1970s to follow a model that allowed proper politics and proper democracy based on compromises.

We often speak about the importance of soft power to the United Kingdom—soft power framed in great institutions such as the NHS, the BBC, our archives, our museums, our universities and, of course, Parliament. If the display of this important soft power in a world that needs the reality of that soft power to be for its benefit, not for its dismissal, is one that cannot settle issues of union, collaboration and partnership, and

even our relationship with our nearest neighbour—by country, let alone by community—this Parliament will have failed in the soft realities of Brexit. This is not about how we leave the European Union but about how we conduct the processes by which we leave, the relationships between the parts of the United Kingdom and the display of what this mature democracy should be for the nations that are forming, from fledgling beginnings, what they want to be—the ideal model of responsible and honourable leadership.

1.48 pm

Lord Thurlow (CB): My Lords, it is a pleasure to follow my noble friend Lord Hastings. His reference to the dogfight of refusals emanating from the Palace of Westminster to our friends around the world will ring with me for some time.

I add my voice to the echo in the Chamber by thanking my noble friend Lord Lisvane for securing this important debate—what immaculate timing. Like the noble Lord, Lord Judd, I am 50% Scottish and 50% English. I live two-thirds of the time in England. My family name is thoroughly Scottish but my title is English, and my heart is in the north. I feel quite well qualified to speak in this debate, but noble Lords will understand that my comments relate principally to Scotland.

The Scottish National Party is the largest party in the Scottish Government. It does not have an overall majority, but its declared objective is, without question, independence. It is in the name. It already frustrates the UK Government's attempts and endeavours wherever it can. While it is the largest party at Holyrood, Scotland was bitterly divided in 2014 during the independence referendum. Particularly bitter was the division in the communities—particularly rural communities—and it was even more harmful among many families.

Rather than trying to trumpet the possible advantages of independence, there was far too much anti-union marketing in that campaign. It was aimed at the heart, not the head. Visions were displayed of a popular film actor, swathed in tartan and wielding a claymore, reminding those who read the posters of that magnificent victory at Bannockburn approximately 700 years ago. The nationalist party in Scotland feeds on all this for its popularity and support.

All that said, we must not forget that, like Northern Ireland, Scotland voted to remain in 2016, with 55% in favour of doing so. It is an unfortunately easy stick with which to drum the rhythm beat of Westminster-bashing, but Scotland did vote that way and we must respect it and try to understand why. It suits their agenda—a subject so divisive anyway. So, as the Brexit debate unfolds, or cascades, in front of us, we must expect a greater threat to union stability. It will continue to feed the beast of division north of the border.

To counter this threat to the union, we need to build a stronger relationship among all the member countries. In an era of devolving powers, we—the union as represented in Westminster—must decide what we want from the union and, much more importantly, what member countries want from Westminster. Only through appreciation of what the union has to offer each of its parts can we hope to build a positive relationship. Let us take the

opportunity of this divided moment to lay bare the strengths and frustrations of our union before perhaps we attempt to rewrite—or, rather, to write—our constitution.

1.52 pm

Lord McCrea of Magherafelt and Cookstown (DUP):

My Lords, originally I did not intend to speak but quite a number of misleading statements concerning my party have been made during this debate and they should not go unanswered.

I have no doubt that Brexit has presented a great challenge to the people of the United Kingdom and a great challenge to the Government. However, it was decided by the people of the United Kingdom that the UK should leave the EU, and that must be honoured. One could of course ask how we got there. We did not get there by chance. Looking back over history, I was reminded that a certain Nick Clegg walked out of the Commons on 26 February 2008 when the then Speaker, Michael Martin, refused to call a Liberal Democrat amendment demanding a referendum on the EU. Another Liberal Democrat Member of Parliament was then expelled from the Chamber. In their 2010 election manifesto, the Liberal Democrats called for a national vote on UK membership of the EU. The only problem was that, when they got it, they did not like the result, but of course that is not how democracy works. When you call a referendum and ask the people their view, you should respect the will of the people.

During the previous debate on Brexit, the noble Lord, Lord Bruce, said that I had suggested that we should discount the 88% of the nationalists who voted against Brexit. I did not say that they should be discounted; I said that 56% of the people of Northern Ireland voted to remain and 44% for Brexit, but 66% of unionists voted for Brexit. I remind this House that seven Members in another place were elected and the only barrier to them coming to the United Kingdom Parliament is the barrier that they themselves have erected. They can certainly speak for the 88% of nationalists but I am proud to speak as a unionist. I believe that the Brexit vote was taken not as a regional vote but as a vote for the whole of the United Kingdom.

There was also mention of the threat of violence. That is a very serious matter to raise. Coming from a part of the country and from a family that have endured the reality of violence and the murder of my loved ones, I suggest that we should not even be talking about the threat of violence if the Government continue with Brexit.

This is a serious matter and we are faced with a problem. The Prime Minister has offered to have talks across all the parties but the leader of the Labour Party has slammed that offer as a stunt. I believe that all parties are obliged by the people to seek a way forward to gain a resolution to this vital issue. She has offered talks and it would be remiss if we did not take them up in a constructive way, seeking a way forward for the people of Northern Ireland and the rest of the United Kingdom.

1.55 pm

Lord Thomas of Gresford (LD): My Lords, in my youth, the union was strong. Not only had the four nations survived two world wars side by side but there was a community of interest that bound people together.

Coal miners faced the same hazards in pits across Britain. The Gresford hymn is still played and sung annually at the Durham Miners' Gala to commemorate the 266 miners killed underground at the Gresford pit in 1934. Steelworkers from Merthyr to Shotton, Sheffield and Motherwell had common interests, and workers in the shipyards of Belfast and Glasgow, Liverpool and the Tyne shared common dangers.

However, as those great UK-wide industries declined and departed, the solidarity of the union weakened. Devastated communities were left isolated—high and dry. Then the European project got under way. European development funds underpinned the economies of areas in decline, and nowhere has benefited more than Wales. European structural funds have invested more than £4 billion in supporting many thousands of jobs and creating new enterprises. Europe helped to stabilise the union at a time of profound economic and social change.

Devolution has played an important part in creating stability. In Wales we regard Sir John Redwood not so much as the architect of devolution but as its cause. As Secretary of State between 1993 and 1995, two years before the 1997 referendum, he attacked the non-governmental organisations delivering services in Wales with Thatcherite zeal, halved public funding to the Welsh Development Agency and cut his own Welsh Office staff, outsourcing to the private sector. He banned the use of the Welsh dragon on a leaflet entitled *Wales in Europe* and refused to second staff to ensure a Welsh presence in Brussels. He boasted that he had returned £100 million of the funding allocated to Wales, unspent, to the Treasury. He travelled home to Wokingham every night to avoid staying in Wales, refused to sign documents in the Welsh language because he did not understand them, and his rendition of the Welsh national anthem remains a YouTube classic that is very dear to our hearts. Therefore, we thank him for ensuring for us the slim majority of 0.3% that brought devolution to Wales two years after his regime, and we wish him a similar outcome for his dreams in the ERG.

It is that same contempt—that imperial condescension, as the noble Lord, Lord Lisvane, put it, or colonial complacency, as the noble Lord, Lord Adonis, described it—which has been exhibited in the Brexit negotiations. As the noble Lord, Lord McConnell, pointed out, the devolved Administrations were not consulted. The Joint Ministerial Committee did not meet for eight months, the joint letter written by Mark Drakeford and Mike Russell in protest on behalf of Wales and Scotland was ignored and the recommendations by the committee chaired by the noble Earl, Lord Kinnoull, were put on the shelf. It is not surprising that the Government struggled and, in the case of Scotland, failed to get legislative consent to the withdrawal Bill.

Brexit involves abandoning EU mechanisms that have delivered the most generous regional assistance that Wales has ever seen in favour of a shared prosperity fund of indeterminate size and effect. This fund will be in the partisan political control of a UK Government, dominated by England, whose instincts are, as my noble friend Lord Wallace pointed out, incorrigibly centralist. I do not think Wales will get a fair deal. European funds have been distributed on the basis of

[LORD THOMAS OF GRESFORD]
need but I strongly suspect that this shadowy new fund will be distributed, like the Barnett formula, on a crude headcount.

In the last year we have observed the abandonment by the Westminster Government of exciting plans for the Swansea tidal lagoon and the electrification of the railway to Swansea. Japanese investment is under threat in the proposed new power station at Wylfa, as we discussed earlier today. Agricultural support is not guaranteed beyond 2020. Jaguar Land Rover, Ford, Vauxhall, Toyota and Airbus—all industries with vital outlets in Wales—have announced plans to move investment into Europe. As for steel, Anthony Taylor, the former mayor of Port Talbot and a steelworker for 39 years, told the *Financial Times* last March that a hard Brexit would be disastrous for the local economy:

“We are going to have to compete in markets that we are not big enough to compete in. It’s OK to say we will take back control, but control of what? It makes me a bit nervous to see ministers going around the world trying to sign trade deals with anybody and everybody. It doesn’t look good”.

Independence has not been a strong sentiment in Wales. It was a passion that dared not speak its name. A recent analysis has shown that in the 20 years between 1997 and 2017 the word “independence” appeared 150 times in the SNP manifestos but only 15 times in the manifestos of Plaid Cymru. It was therefore a sign of these Brexit times that Adam Price, who recently defeated Leanne Wood for the leadership of Plaid, campaigned on an independence platform and wrested the leadership from her.

I wish the Bill of the noble Lord, Lord Lisvane, whom I congratulate on getting this debate, well. I will certainly study it and I promise to respect it in the morning. However, if Brexit happens, I am with the noble Lord, Lord Hannay, in believing that the movement for separation will grow. I hesitate to talk about Northern Ireland since I once asked the noble Lord, Lord Rogan, what was wrong with a united Ireland, and he told me to wash my mouth out. However, a special relationship between Northern Ireland and the EU through the Republic of Ireland could have a very positive benefits for the people and economy of that Province. The special economic zone of Shenzhen, founded in 1982 on the borders of Hong Kong, has caused a market town of 30,000 to grow into a metropolis of nearly 13 million people. We talked on Tuesday in this Chamber about the flood of expensive English lawyers who have already joined the Irish legal profession in Dublin to protect their existing businesses in Europe. Belfast could attract them and other leading service industries for the same reason. A referendum on the border is only a generation away—and I am sure that the noble Lord, Lord McCrea, will respect its outcome. There may be much attraction then for a prosperous Northern Ireland seeking at least a confederation with the south.

Thirteen of the 27 countries of the EU have smaller populations and economies than Scotland, and five are smaller than Wales. If Brexit happens, it is not beyond the bounds of possibility to envisage a successful confederation of Celtic states as part of the single European market and in a customs union. There was a time when the United Kingdom was more united and devolution seemed just as far away. Perhaps the noble

Lord, Lord Wigley, and I should resume our talks, adjourned in 1967, for the formation of an alliance of Welsh radicals.

Brexit, which makes people poorer, will weaken the bonds and, as the noble Lord, Lord Judd, has just pointed out, adds to the instability that the many problems of the modern world present us with now.

2.05 pm

Lord Griffiths of Burry Port (Lab): My Lords, I rise to speak immediately after a Welshman and sitting directly under the magisterial presence of another one whose speech beguiled us and perhaps raised the level of our thinking to a noble vision of what can be achieved if the will is there.

This time last year, I was cutting my teeth in the brutal world of politics, of which I had no experience whatever, out of my depth, swimming against the tide and trying hard to understand what was happening in what was then the European Union (Withdrawal) Bill. What a place to begin to familiarise yourself with due process. It is process that I would like to concentrate upon, picking up on remarks that have been made from around the Chamber about how we go about taking forward a discussion of issues as complex as this. I will not repeat things that have been said in varying ways, although I will want to begin by thanking the noble Lord, Lord Lisvane—a good Welsh place of origin, if I may say so; I can recommend a lovely place for us to eat together some time when I visit there—for raising our sights. We have all been groping around in the dark and plodding along a path whose destination at this stage we have not yet identified, but he has raised our sights and reminded us that, when all this trouble and strife is over, there is going to be a world waiting to be recreated, relationships that have to be mended and an ongoing story that has to be told.

My clear remembrance of some of the discussions a year ago on the withdrawal Bill, Clause 11 in particular, gives me the substance of what I want to share now. When Clause 11 appeared in that proposed legislation, it showed just how out of touch the Government were. Instantly there rose to arms the Law Society, the Hansard Society, the Bar Council and the Constitution Committee of your Lordships’ House—all of them indicating that it simply could not work. For a long time, having promised us a resolution of the contradictions that had been identified, the Government were not forthcoming with a suggested alternative. It was on Report, as many will remember, that eventually things in fact got rewritten.

The changes were so radical that the original now is lost and for the attention of archaeologists in a thousand years’ time—but the basic element within it was a spirit of compromise in order to reach the new Clause 11. I remember working with David Lidington, Mark Drakeford and Michael Russell, all of us trying our hardest to give our attention to the document on restructuring Wales, mentioned by the noble Lord, Lord Wigley. It was the work of Steffan Lewis, whose memory I too want to honour. This remarkable young man gave us a White Paper showing a negotiating position within six months of the referendum. Is that not what the national Government should have been giving us—material to work with?

As the noble Baroness, Lady O'Neill, said, that negotiating position was formulated before red lines were drawn. We might have had to come to that, but this was open and embracing. We looked at that, recognising that, in the eventual Clause 11, consideration would have to be given to all those areas where commonalities cross borders. We recognised that, out of the 120 or so areas, over 100 could be managed quite easily with existing modalities, mechanisms and arrangements. There were 20 or so that would need special frameworks within which we would have to sort things out—and we pledged to achieve that. We recognised that the Joint Ministerial Council, to which the noble Lord, Lord Thomas, referred, was really down on its uppers. Nobody was happy with it. The splendid briefing paper we received from the Library mentions the need to beef that up. It needs to be beefed up; it does not have to be second-rate people coming along to it in a spirit of boredom and ennui.

So there we were, discussing, negotiating and coming forward with something which the Government were eventually pleased to put into their legislation. That methodology has been missing from the rest of the discussions between—what is it?—London and Brussels, the European Union and the United Kingdom, or a few individuals centred in No. 10, Chequers or wherever. When the agreement was eventually published, with its accompanying policy document, it made no mention of either Wales or Scotland. The die was cast. That document came out of an entirely different set of preconsiderations. Nobody had been consulted. There was no room for compromise. I do not know how you make your way forward when that is the spirit that has produced the working documents that will affect the future of this country well into the years ahead.

We just have to express our confidence in the methodology used by those who worked on that Bill a year ago, showing that it can be done. David Lidington in the Cabinet Office was magnificent and accommodating; he put his officials at our disposal, checked things for us and looked for extra information. It was an exercise in how to negotiate—which, from my reading at a distance of all that has happened on the official front, has been entirely absent. So here we are. What have we learned? We have learned that because the agreement is so at odds with everything that the restructuring Wales document was about, the Welsh Assembly felt obliged to reject absolutely everything that has come forward through the other channel. We are now in a very difficult place indeed. Scotland will have its own stance and so will Northern Ireland.

What do I read while sitting here enjoying this feast of oratory, rhetoric and wisdom that the House of Lords is famous for? Some of us look at our phones now and again to see what is happening in the real world outside, and I see that the spokesperson for the Prime Minister has said that she is entering into discussions with senior politicians from other parties with “no change” in her basic principles. There will be no market that we can all belong to. There will be no bending of those principles that we have heard ad nauseam. In a Statement made in the other place on Monday, the Prime Minister herself promised, as a concessionary point to the people of Ireland, that they would have a place at the negotiating table as this agreement

was taken forward after we left the Union. Well, congratulations to Northern Ireland—but what about Scotland and Wales? What about the discussions on which will depend the ethos and timbre of the kind of country we are when the Brexit thing is behind us? We have had a deplorable lack of consultation. This debate has proved, again and again from various parts of the House, just what might have been done differently. The noble Lord, Lord Adonis, paid tribute to the qualities of the Minister, and it is now up to him to live up to those remarks.

2.15 pm

Lord Young of Cookham (Con): My Lords, if that was the speech of a novice, we look forward to hearing from the noble Lord when he finds his length. I am grateful to all noble Lords who have taken part in this timely and exceptionally well-informed debate. In particular, I am grateful to the noble Lord, Lord Lisvane, who chose and introduced it, this time without the colourful reference to his maiden aunts.

The noble Lord has listened to more hours of debate in Parliament on the union—many of them I expect involuntarily—than any of us. He has unrivalled insight into the constitutional and legislative implications of what has happened in the past and what is happening now. I am therefore pleased that at this time of constitutional change, with our eyes turned outwards to the EU, he has provided us with the opportunity to look inwards—as the noble Lord, Lord Griffiths, has just told us—to the far older, far stronger bonds between our nations, which have enabled us to overcome past challenges, as the noble Lord, Lord Armstrong, told us. This is an opportunity to see how those bonds might be strengthened in the future. My noble friend the Duke of Montrose managed to put the relationships in a historical context by drawing on recollections of his ancestors.

I will say straight away that the Government take the warnings from the noble Lord, Lord Lisvane, and others who have spoken in this debate extremely seriously. I pay tribute to the work that the noble Lords, Lord Lisvane and Lord Hain, and others have done with the Constitution Reform Group to bring stability to the union, an objective which we all share. The Minister for the Constitution looks forward to meeting that group soon, and I will return to the Bill in a moment.

Speaking on “The Andrew Marr Show” earlier this month, the Prime Minister said that, if the vote was lost on Tuesday, we would be in uncharted waters, and that of course has consequences for the union. In our debate, we have had some professional political cartographers steering us away from the jagged rocks below the cliff edge to which some siren Brexiteers entice us, and indicating where calmer waters and more favourable winds may prevail. No deal would be bad for all of us but it would create particular political tensions in Scotland and Northern Ireland, as we have heard today from my noble friends Lord McInnes and Lord Dunlop, and from the noble Lords, Lord Thurlow, Lord Hannay and Lord Hay, who spoke about the backstop. I think we were all moved by the speech from the noble Lord, Lord Wigley, about Wales and the late Steffan Lewis, to whom he paid tribute.

[LORD YOUNG OF COOKHAM]

It is worth rewinding briefly to see how we got here. Of course, the centrifugal forces within the UK predate the Brexit referendum, as the noble Lord, Lord Lisvane, said in his opening remarks. This was repeated by the noble Lord, Lord Judd, and the noble and right reverend Lord, Lord Chartres. We saw the growth in political support for Scottish independence when the SNP unexpectedly won overall control at Holyrood, and in Northern Ireland we have seen growing support for the party that believes in a united Ireland. The Brexit referendum crystallised and added momentum to these forces.

During our debate, there has been criticism of the decision to hold referendums, a point made by the noble Lord, Lord Empey. The noble Lord, Lord McCrea, reminded us of how we got here. I am personally cautious about referendums as they can cause tension with our parliamentary democracy, but there are some issues which it cannot satisfactorily resolve. For example, the SNP, mentioned by the noble Lord, Lord Thurlow, was never going to win a majority in Westminster to deliver Scottish independence, yet there was clearly significant support for it in Scotland. The referendum was the right way to resolve that issue. Likewise, UKIP was never going to win a Westminster election, but in 2014 it topped the poll in the EU elections on an unequivocal manifesto of withdrawal. Again, the referendum was the right way to resolve this question and lance the boil.

Likewise, there is provision for a referendum in Northern Ireland should the conditions in the Belfast agreement ever be fulfilled, a point referred to by the noble Lord, Lord Bruce. I was impressed by what the noble Lord, Lord Rogan, said: that in Northern Ireland, more important than Brexit is the wish of the population to see the restoration of the Northern Ireland Executive. They see that as their top priority.

In passing, I understand all the arguments against a second referendum, which is not government policy, but I do not accept that our democratic tradition is so fragile that it could not withstand one, were it to be held.

The criticism that can be made of the Brexit referendum is not so much of the decision to hold it, as of the subsequent and unsuccessful campaign to remain, recently revealed on our screens as having been outwitted by a slick if, at times, irresponsible operation acting below the radar of conventional politics and masterminded by an arch political disruptor. That referendum crystallised, but did not cause, the different views in the UK on whether we should remain part of the EU. Two countries voted to leave and two to remain. The consequences of that have been the focus of today's debate.

I turn to the constructive proposals from the noble Lord, Lord Lisvane, in his Bill to help bind the UK together. I commend him for identifying the broadly undisputed purposes of the United Kingdom in Clause 2. I also applaud the heroic endeavour to distinguish between what are called "central policy areas" and matters that are devolved to the four national Parliaments. Here, I particularly welcome the requirement that the Governments of each nation co-operate on matters of national importance, such as aspects of defence and security. Co-operation is one of the key

principles of our current memorandum of understanding between the UK Government and the devolved Governments, and its operation over recent years has been positive. Such an approach should continue. I propose to say a word or two in a moment about one of the themes running through the debate on the relationship between government and the devolved Assemblies.

Reading the press release put out by the steering committee on 9 October, I was struck by the following sentence:

"the Bill asserts that Scotland, Wales, Northern Ireland and (if it so chooses) England is each entitled to its own internal sovereignty".

The noble Lord might find this an unfair comment, but I found it perverse that a Bill that seeks to bring us closer together should have as its starting point the total separation of the four parts of the union. Even if they subsequently agreed to pool sovereignty, that initial step and taste of sovereignty might make subsequent independence easier to achieve, a point made by my noble friend Lord Dunlop.

My first question on reading the Bill relates to the asymmetrical nature of current devolution settlements, which I think correctly reflects the different histories and cultures of our four nations. Scotland, Wales and Northern Ireland are all treated differently. The Bill does not appear to make provision for this, and has a one-size-fits-all approach that does not reflect the findings of the Silk and Smith commissions, nor the views of the people of the UK, as mentioned by my noble friend Lord McInnes.

My second question relates to one raised by the noble Lord, Lord Armstrong, about adjusting the settlement over time to reflect changing circumstances. We can do that at the moment and we do so relatively easily. English votes for English laws is a case in point. It has embedded fairness and balance into Parliament's law-making process, ensuring that MPs representing English constituencies can consent to legislation that affects only England while maintaining the key principle that all MPs from across the UK can debate, amend and vote on every piece of legislation.

We have also continued to move forward at pace to decentralise governance in England, bringing powers closer to the people so that services can be delivered that are attuned to their local needs. I challenge the assertion of the noble Lord, Lord Adonis, who I think said that little had changed since Redcliffe-Maud. Through the Cities and Local Government Devolution Act 2016, we have taken major steps to decentralise governance in England through devolution deals. Seven city regions are now headed up by their own elected mayors, with their own devolved powers and budgets.

I welcome the comments of the noble Lord, Lord Wallace. An enthusiastic debate over devolution is continuing across Yorkshire and a number of further suggestions have already been discussed locally. We are of course willing to discuss proposals that have support behind them, cover a sensible economic area and do not break up areas that already have long-standing integrated services. We are currently considering the information recently submitted by the 18 Yorkshire leaders, but we have always been clear that the first step to any devolution deal across Yorkshire is the full implementation of the

2015 Sheffield City Region devolution deal. We want Sheffield to enjoy the full benefits of its 2015 deal, including £900 million of investment.

Turning back to the Bill for a moment, the future changes set out in Part 2 of the Schedule seem infinitely more complicated and cumbersome, and risk locking us into a settlement that becomes outdated—a point made by the noble Lord, Lord Armstrong. Constitutional development in the UK needs to evolve to reflect circumstances of the day and be flexible enough to meet new challenges.

The noble Lord, Lord Lisvane, will understand that his Bill is unlikely to have an easy passage. My attention was caught by Clause 28(1), which says:

“On commencement of this Section, the House of Lords shall cease to form part of Parliament”.

Well, we may need to spend a little time on that one. The noble Lord will understand better than anyone that a Bill heralding the most significant constitutional change in our history will take a Session or two to make progress.

What are the Government doing to strengthen the union during Brexit? We recognise the importance of working closely with the devolved Administrations throughout the negotiation process and welcome the regular engagement that has taken place through forums such as the Joint Ministerial Committee on EU Negotiations and the Ministerial Forum on EU Negotiations.

Here I might depart from my text—always a risk—and say that one of the themes running through the debate has been what the noble Lord, Lord Lisvane, called “imperial condescension”, the noble Lord, Lord Wigley, referred to as a “power grab”, and the noble Lord, Lord Adonis, referred to in more derogatory terms. But it was clear from what the noble Lord, Lord Griffiths, said, that the Chancellor of the Duchy of Lancaster, my right honourable friend David Lidington, wants his approach to have that element of respect and to promote good relationships.

I take on board the points made by the noble Earl, Lord Kinnoull, the noble Lords, Lord Lisvane and Lord McConnell, my noble friend Lord McInnes and a number of others that this relationship should be rebooted. Comments were made about the regularity of the meetings and Ministers’ attendance. It is quite clear from this debate that the institutions and the quality of the dialogue need to be improved. As a result of the exchanges on that subject, I propose to talk to the Chancellor of the Duchy of Lancaster whenever I can and feed through to him the theme that has consistently run through some of the speeches on both sides. I know that officials are working closely with counterparts in the devolved Administrations to take forward this review of intergovernmental relationships. On 19 December, the Prime Minister, together with the First Ministers of Scotland and Wales, reviewed the progress made so far of the review at the JMC. It is important for us to look, in the light of our debate, at the principles and machinery that underpin the relationships and how we can best ensure—

Lord Dykes: Since the Prime Minister is so overworked and busy, would it not be a good idea for David Lidington to be in charge of those detailed discussions?

Lord Young of Cookham: My right honourable friend David Lidington has a key role to play in building up a relationship with the devolved assemblies. He has attended a large number of these meetings. If the noble Lord looks at the allocation of ministerial responsibility, the Chancellor of the Duchy of Lancaster has this as part of his portfolio.

To revert to what I was saying, an interim report was presented and agreed on 19 December. All the Administrations have tasked officials to make a further report to the JMC(P) in due course. I will ensure that the views expressed during this debate are taken on board as that review takes place.

The noble and learned Lord, Lord Morris, asked about legislative consent Motions. We are fully committed to the Sewel convention and its associated practices for seeking consent set out in the devolution guidance notes. We are continuing to seek legislative consent, taking on board the devolved Administrations’ views and work on the EU exit Bills according to established practices, just as we have always done.

I may need to write to the noble Baroness, Lady O’Neill, about the letter from Mr Tusk that she referred to but, in principle, the Government are committed to the Belfast agreement, as they always have been, and remain steadfast.

We have been working with the devolved Administrations on what a deal might look like in practice domestically. We are committed to preserving and strengthening the decision-making abilities of the devolved Administrations and, as we have made clear, the devolved institutions will continue to be able to make any decision that they can make now after exit. As set out in the EU withdrawal Act, as new powers are returned to the UK and where they are within areas of devolved competence, they will flow directly to Belfast, Cardiff and Edinburgh.

We are also working collaboratively with the devolved Administrations to agree where we should continue to take UK-wide approaches and what they will look like. These common frameworks referred to by the noble Lord, Lord Griffiths, will be established in specific policy areas and help preserve the UK internal market, preventing four different sets of rules in different parts of the UK making it more difficult for a cheesemaker in Monmouthshire to sell to customers in Bristol, or for a farmer in Aberdeenshire to sell their beef in Berwick-upon-Tweed.

On funding, which a number of noble Lords mentioned, we are committed to the Barnett formula. We believe it is a fair and transparent way of funding the devolved Administrations. The noble Lord, Lord Empey, raised a good point on accountability. I suppose the answer is that the Scottish Executive are accountable to the Scottish Parliament, and ultimately to the Scottish electorate, for the way in which they spend the money—including the money that they get from Westminster.

In the turbulence of the current political situation, it is easy to lose sight of the background to this debate. The bonds between our nations exist not only because we share values and histories but because, time and again, we have shown that we can achieve more when we operate together. That is why we believe in the union and will continue to govern in the interests of every part of it. That commitment is reflected in the

[LORD YOUNG OF COOKHAM]

way that we work across the entirety of the UK: from high-profile, job-creating investments such as the aircraft carrier being built at Rosyth to the no less important work behind the scenes, such as officials working hard to ensure that Welsh beef and lamb can be sold across the globe. Initiatives such as the industrial strategy drive growth across the whole of the UK, while sector deals and investment in research and development will support the industries of the future, whether in Scotland, Wales, Northern Ireland or England.

I will try to answer one or two specific questions. My noble friend the Duke of Montrose asked about the Supreme Court. We challenged the Scottish Bill on the basis that it was not within the competence of the Scottish Parliament. We are grateful to the Supreme Court for providing greater clarity. This is not simply a question of where constitutional powers lie, important as such questions are. Greater clarity was needed to ensure that our statute book functions properly and the law is clear.

I say to the noble Lord, Lord Hastings, on Gibraltar: let no one be in any doubt that on the future partnership the UK will negotiate for the whole UK family including Gibraltar, as the Prime Minister said on 25 November. As the Chief Minister said, this is a deal which works for Gibraltar.

Where do we go from here to prevent the centrifugal forces I referred to earlier driving apart the component parts of the UK? We need a deal with the EU that those in Northern Ireland and Scotland in particular feel comfortable with, even though a majority voted to remain, and we need to avoid no deal.

In 2010, my party was the largest one but it had no majority. The country was looking over a cliff edge after the collapse of global markets, with concerns about our currency and our financial and political instability. Then, in the interests of the country, we reached out to those sitting on the Opposition Benches—our opponents in the recently concluded general election. An offer to talk was rightly accepted, without any preconditions. We then had to abandon some manifesto commitments; there were tensions within my party that had to be managed as we formed the then coalition. But it was the right thing to do and I remind my former colleagues in another place, understandably worried about their future, that our party came together then and, when the country passed its verdict, we went on to win a general election for the first time in nearly 25 years.

Now, we do not need another five-year coalition but, picking up a point that I think was made by the noble Lord, Lord McCrea, we need to work together again in the interests of the country. The current deal is dead but I hope that a reformed one can be found, acceptable to those who want to leave, so that the referendum box can be ticked, but also acceptable to those who, like me, voted remain so that we can do so with minimum turbulence, because on leaving we move into the transition period where there is stability. Your Lordships' House has debated these issues today calmly and constructively, in contrast to the excitable atmosphere in another place, and we have put aside partisan points. That is the spirit in which the debate should

now continue in both Houses of Parliament, with a view to arriving at an acceptable conclusion in the national interest.

2.35 pm

Lord Lisvane: My Lords, I will not attempt to respond to or summarise the debate in any way, as that role has been so admirably performed by the Minister. I will just say two things. First, I thank all noble Lords who have taken part in what has been an excellent debate. Secondly, I say to the noble Lord, Lord Griffiths of Burry Port, that I think the hostelry in Lisvane he has in mind is the Black Griffin. I should be very happy to join him there. We might even persuade the Minister to join us for an extremely convivial discussion of the Act of Union Bill.

Motion agreed.

Brexit: Further Referendum

Question for Short Debate

2.36 pm

Asked by Lord Tyler

To ask Her Majesty's Government what legislation is necessary to enable a further referendum on the United Kingdom's membership of the European Union to take place in 2019.

Lord Tyler (LD): My Lords, I am delighted to be able to open this very topical debate. I am disappointed only that for obvious reasons the noble Lord, Lord Young of Cookham, is not able to respond, since I know from long personal knowledge that he would have been fully acquainted with the issues to which I will refer. However, I was delighted to note his comment just now about referendums. I will take that away and think about it again. In the meantime, it seems that he and the Cabinet Office have been able to brief the noble Lord, Lord Callanan, the Minister who is to respond, which is just as well since the subject of this debate has relatively little to do with his department.

Incidentally, I was interested to see a Written Answer yesterday from the Minister in which he announced, "we will be leaving the European Union on 20 March 2019". He may be leaving on that date but the rest of us have to wait nine more days, or possibly nine more weeks—or not at all.

The Minister of State, Department for Exiting the European Union (Lord Callanan) (Con): I am grateful to the noble Lord for the opportunity to correct that. It was an administrative error. It did not correspond to the draft of the Parliamentary Question that I signed off. I have spoken to the Permanent Secretary in my department, who is instituting an inquiry into how that happened. I have also written to the noble Lord, Lord Bassam, to apologise for the error and correct the record.

Lord Tyler: I am delighted that the Minister has had that opportunity. I suspect that it was handwriting; if his is anything like mine, "0" and "9" occasionally look much alike.

The subject on the Order Paper does not directly argue the merits or demerits of a further referendum on our relationship with our present partners in the EU. I note in passing, however, that the unprecedentedly large majorities in both Houses defeating the Government's current preferred deal, to which the noble Lord, Lord Young, referred just now, together with the ever-increasing insistence that a crash-out no deal is unacceptable, means that the Cabinet and Parliament may together move in the direction of a new referendum. That is certainly the view of all serious commentators since those votes, while of course the vote last night removes the alternative of a snap election. I should say that next month I will celebrate the 45th anniversary of my first election to the other place. I have never experienced anything quite like the irresponsible prevarication of kicking the can down the road, which is of course evident again in the other place this very afternoon with the Business Statement. It is quite extraordinary.

However, that is not the subject of this debate: I am sure that the Minister and other speakers will not wish to spend precious time on it. Rather, we are concerned here with the practicalities of electoral law. I am extraordinarily grateful to the noble Lord, Lord Lisvane, for still being here—I suspect that he has missed his lunch. He and I anticipated, way back in September 2018, that the circumstances could arise if and when the Government or Parliament, or both, had to examine the need for new legislation. We were anxious that the pressure of time in such circumstances might mean that a consensus on the necessity of dealing with acknowledged defects in the 2015 Act was ignored or that both Houses were forced to rush through inadequately scrutinised proposals. In our experience, nothing results in imperfect law more than claims of expediency or lack of time. We were reinforced in our determination that such a process could not and should not be cobbled together at the last minute when an authoritative report from the Constitution Unit at UCL was published in October—it has been referred to in the excellent Library brief for this debate.

With the expert advice of Dr Alan Renwick from the unit, the professional assistance of the experienced legislative draftsman, Daniel Greenberg, and supervision by a cross-party/non-party reference group comprising also the noble Baroness, Lady Quin, and the noble Lord, Lord Hodgson of Astley Abbots, we produced the draft Bills before Christmas.

Significantly, we concluded that a very short “paving Bill” would be necessary to authorise the Electoral Commission to start preparations before Royal Assent for the main Bill because there is clearly a tight timetable ahead. By this means, we calculate that polling day could be any time before the beginning of May 2019 or even earlier. That would be very helpful in terms of the European parliamentary elections that follow at the end of May.

Of course, individual members of this team have differing views on the desirability of a further referendum and do not necessarily endorse every word of the drafts. However, we all agree that Parliament must consider and approve properly prepared, effective and updated legislation for this purpose.

On Monday this week, just before the votes in the two Houses, a formidable cross-party group of MPs, led by my right honourable friend Vince Cable and including Dominic Grieve and Chuka Umunna, published our draft Bills and endorsed this approach. Subsequent events have clearly justified their and our commitment to concentrate on relevant preparation rather than wasting millions of pounds and millions of hours on the no-deal distractions. As noble Lords may be aware, yesterday Mr Grieve formally presented our cross-party draft legislation in the other place.

No doubt other Members of Your Lordships' House participating this afternoon will have examined these draft Bills, which are included in the Library brief together with all the other relevant discussion that has taken place in both Houses in recent weeks and months, so I do not need to take them through every aspect of our proposals but simply highlight the crucial features.

The draft paving Bill, the preparatory legislation, is limited to authorising the Electoral Commission to consult on the choice of the ballot paper question, which will also affect the choice of lead campaign organisations, before Royal Assent for the main Bill. This could be taken through both Houses in a matter of a few days or even hours. We were guided by a wide range of expert opinion and took careful note of the views of the Electoral Commission in opting for a simple binary choice, just as in 2016, between two very firm, detailed and easily intelligible options—indeed, much firmer and more intelligible than in that case.

Our initial proposal is that the choice should be between the leave conditions negotiated and recommended by the Government and remaining within the existing, well-understood conditions of EU membership. Much as electoral reform anoraks like me might enjoy a three-way, AV or two-question poll, we agree with all the expert evidence that we have received that this would be both confusing and likely to result in variable and unclear results.

The other area of potential variation on the 2015-16 legislation that concerned us was the franchise. Since I successfully supported the inclusion of 16 and 17 year-olds at one stage of the 2015 Bill in your Lordships' House, and lost that only when support fell away at ping-pong, I am only too aware of the case for them to vote on such an important decision for their future. That case will be made again, I know, together with that for all EU citizens permanently resident in the UK and all UK citizens resident abroad.

However, we were persuaded by the Constitution Unit and others that to include in this first draft a change in the franchise compared with 2015-16 position would be seen to be moving the goalposts. Therefore, we have not done so at this stage.

This did not preclude us from examining carefully the generally agreed case for removing defects in the 2015 Act where the subsequent experience of the Electoral Commission, the Information Commissioner's Office and the DCMS Select Committee had identified the need for greater transparency relating to spending returns on the one hand and the authorship and payment for online messaging on the other. Our schedule to the main Bill, especially items 3 to 6, deals with those matters.

[LORD TYLER]

In my usual constructive and positive way, always helpful to Ministers, I am both posing the Question and providing the Answer today. This is practical contingency planning, compared with the nonsensical preparations for the crash-out no deal that the noble Lord, Lord Young, referred to earlier as now really removed from our consideration. I am sure that other Members of your Lordships' House will be equally concerned to ensure that Parliament, if now faced with this challenge, is well prepared—in a former life, I was a Boy Scout, as no doubt were other Members of your Lordships' House: be prepared.

I can confirm that my right honourable friend Vince Cable and other colleagues have raised these practical issues with the Prime Minister and her senior Ministers in response to her invitation following the vote last night. This debate could not be more topical and I am delighted to introduce it.

2.46 pm

Baroness Browning (Con): My Lords, I must declare that I was never a Boy Scout.

Like the noble Lord, Lord Tyler, I have some questions for my noble friend the Minister, not because I wish to express an opinion on whether there will be a referendum as a result of the Brexit negotiations but, since it is being discussed in Parliament and contingency planning is important, because my main concern is about matters that have been raised by the Electoral Commission since the previous referendum. I say that as a former member of the House of Commons committee which oversaw the Electoral Commission and as a former electoral commissioner myself.

In 2016, the Electoral Commission produced two reports. I would like my noble friend the Minister to take note of some of the recommendations that came out of them. If he is not able to answer today on some of the specific issues, I would be happy for him to write to me at a later date, because some of them are rather techie points.

One of the recommendations refers to the Political Parties, Elections and Referendums Act—a long title for an Act. Its acronym is equally difficult, so I shall refer to it as just “the Act”. It was passed in 2000, but has subsequently been amended by Parliament.

As we have approached any election, it seems that the Act has had to be amended in some way at short notice because somebody has come up with the idea that there is a flaw in it or because matters have moved on. The Electoral Commission made some specific recommendations in its 2016 report following the referendum that we are discussing. The first related to loan controls and stated:

“The absence of loan controls in the ... rules is a significant gap in the regulation of referendums. The ... Government should bring forward the relevant secondary legislation to introduce loan controls”.

In the last couple of years I have unfortunately had some periods of absence due to ill-health, so if I have missed this, if this has gone through and everything has been ticked and is in place, forgive me—my noble friend will no doubt tell me.

I shall not go through all 13 recommendations in the Electoral Commission report, but just focus on some that it will be important to have in place before another referendum, whenever and of whatever nature. Another is that:

“The Government and Parliament should revisit the permissibility controls on companies ... permissibility controls on companies do not fully reflect the recommendations from the Committee on Standards in Public Life, and the implications of the current company permissibility test highlighted by our investigations, the Government and, in due course, Parliament should revisit the issue ... to ensure that they meet the underlying policy intention of preventing donations and loans from foreign companies”.

That is another very important point and something that could easily slip through if there is a referendum at short notice in a small timeframe.

All these recommendations are important but, because of time, I shall focus on just some. The report says that:

“The Government and Parliament should take into account the evidence from the EU referendum when considering whether the PPERA referendum spending limits remain appropriate. The Commission does not have a specific statutory role in advising on spending limits at UK-wide referendums held under PPERA. It is nevertheless important that the Government and Parliament take into account the evidence from the EU referendum when considering whether the PPERA referendum spending limits, including the registration threshold, remain appropriate.”

There is obviously more detail in the report as to why the commission thinks that is important. It also states that:

“Joint spending controls should be incorporated into PPERA. To help ensure the integrity and effectiveness of the referendum spending rules, appropriate controls should be incorporated into PPERA to regulate campaigners that engage in joint spending so that they apply for all future referendums.”

Many people will be concerned about pre-poll reporting:

“Pre-poll reporting requirements should be incorporated into PPERA so they apply for all future referendums. To increase transparency during the months before the referendum poll”—

I do not know whether we are talking “months” here, if such a referendum were to take place, but again the Electoral Commission thought that this was an important area. It recommended that, to help encourage campaigners to accept donations only from permissible sources,

“pre-poll reporting requirements should be incorporated into PPERA”.

Given the legislation load that we are dealing with in both Houses at present, some of this would apply to secondary legislation, but quite clearly an amendment is required to the Act itself for many of these recommendations. I am concerned about how the Government would find the time if they were minded to make these changes in order to improve the referendum, whatever referendum, when it comes. There is also a recommendation that:

“The Commission's current fine limit should be reviewed and increased. To ensure that our sanctioning regime provides a strong deterrent to non-compliance, our sanction limit of £20,000 should be reviewed and increased to a level that would act as a suitable deterrent reflecting the level of fines available to other commensurate statutory regulators and financial regulation regimes”.

This is techie stuff but has come from actual experience of the very referendum that we all discuss and talk about. It is not unusual, I suppose, that one learns as one goes along and that certain flaws come to light. The difficulty would be if those flaws and those

recommendations were ignored and we just carried on in the same way, so I say to my noble friend that this is a challenge to the Government in terms of workload and compliance but I hope that they will none the less find time to examine the report and the recommendations of the Electoral Commission again and see how they might incorporate them into their work schedule.

2.54 pm

Lord Adonis (Lab): My Lords, the noble Baroness says that the issues she has raised are technical, but they are important. They go to the heart of the conduct of a future referendum and are very far from technical. I hope that the Government and the House—because it is quite clear that Parliament is going to take charge of this process—will take very serious account of what she has said about spending limits, the legitimate sources of funds and the sanctions available either to the Electoral Commission or to whichever commission conducts a referendum. Her points were extremely important and I hope people will pay close attention to what she said.

I commend the noble Lord, Lord Tyler, for raising the issue in the House and for the work that he and his colleagues have done in preparing the Bill. The two Bills are fine as far as they go, but as we move increasingly surely in the direction of the referendum—partly because of the vote of the House of Commons on Tuesday, but also not least because of my party's movement towards a referendum, which has been significantly accelerated by Jeremy Corbyn's speech and remarks in Hastings today—it is very important that Parliament should start paying early attention to the rules and principles under which a referendum will be conducted. In the brief time available to me, I want to raise, in telegraphese, 10 issues that need to be considered.

First, it is my view that the vote in any referendum should be extended to 16 and 17 year-olds. The noble Lord, Lord Tyler, said that we should not be moving the goalposts. The goalposts are very uncertain in respect of votes for 16 and 17 year-olds. In the Scottish referendum they had the vote. The Scottish Parliament and the Welsh Assembly have extended the vote to 16 and 17 year-olds for their domestic elections. There is legislation already in the other place for extending the vote to 16 and 17 year-olds in all UK elections. I can tell your Lordships that there is very strong support for the vote among 16 and 17 year-olds, shown both by polls and when you meet them—I do lots of meetings in schools and colleges at the moment—particularly in respect of Brexit, because there is no group whose future is more at stake. It is my view that we should extend the vote to them.

Secondly, there should be automatic registration of all young people in their place of study and not the individual registration that applies at the moment. The Electoral Commission has established that one-quarter of 18 to 24 year-olds are not on the electoral register at the moment, because of the individual registration process. That is democratically unacceptable.

Coming to my third point, the right course is that not only should 16 and 17 year-olds be automatically enrolled, there should be a polling station in all places

of study and places where students reside in large numbers. Those three measures between them will significantly extend and boost voter turnout among young people.

My fourth point, which is related, is that whatever polling day is selected—I know that the Bill mentions May but it may not be possible to hold a referendum that quickly—the polling day for a second European referendum should be in term time, to facilitate young people voting. That means, in practice, that it needs to be in either May or October.

Fifthly, there should be only one campaign allowed on each side. We should not go into another referendum with two campaigns on one side, as happened last time. That was an open invitation to breaches of the law and to dodgy practice, because one was a mainstream campaign supported by the Conservative Party and one was supported by all kinds of fringe organisations.

Sixthly, there should be a special commission for the referendum, on the Irish model. We should not be tied to the very cumbersome processes of the existing Electoral Commission. The concept of a special commission chaired by a very senior judge—in this case, it should be a judge of the Supreme Court—works extremely well in that context and we should apply it here.

Seventhly, there was a big problem in the last referendum about social media and electronic campaigning, which was essentially above the law and played a good part in the disinformation and illegality that took place. I suggest two amendments that would deal with this issue. There should be an imprint on all social media and electronic communications, as applies to printed communications at the moment. The second important reform is that there should be a right of appeal by those who identify social media and electronic communications—a lot of which is very rapidly moving—that they believe are inaccurate or breach the law. People should have a right of appeal to the commission that is established and that commission should have, as the noble Baroness, Lady Browning, so correctly said, much stronger powers of enforcement, including significantly greater powers to fine. It must also have the power to move quickly. With great respect to the noble Baroness, one of the criticisms people have of the Electoral Commission is that it has been far too slow-moving in this process. The fact that the massive illegality that took place in the leave campaign during the last referendum has only just come to the attention of the necessary police authorities is a serious criticism of the Electoral Commission. It cannot be allowed to occur in the next referendum.

My final point relates to the question. The Bill proposed by the noble Lord, Lord Tyler, suggests to a straight choice between the Government's negotiated settlement and the status quo—remaining in the European Union. That may be the appropriate question to put on the ballot paper, but your Lordships are aware that there is a lot of debate over whether there should be a third option of no-deal, or WTO terms. I am open-minded on this issue. There is no technical reason why it cannot be done; preferential voting would make it perfectly possible. After all, people can express a second

[LORD ADONIS]

preference in mayoral elections at the moment—I see no reason why it could not work perfectly legitimately in a referendum.

The issue is not technical. Rather, there are two issues of principle which Parliament will need to consider at the appropriate time. The first is whether a no-deal WTO option is in fact credible, in the sense of whether it could actually be implemented. That is a significant issue, because the proposals put forward by Nigel Farage and others simply could not be implemented. They are not technically possible, and key proposals—particularly with respect to the border in Northern Ireland—would breach the Good Friday agreement and primary legislation.

The second issue that needs to be considered is the concern that Parliament will have for the wider social buy-in to the referendum, and the legitimacy it holds. A big issue is whether it will be possible to have a referendum without an option clearly supported by a considerable body of leave opinion, which is true in the case of a hard WTO Brexit. I have not reached a conclusion myself on that issue, but it is clearly technically possible to have a three-option referendum.

The two issues that Parliament will need to consider are whether there is a credible option that it could implement in respect of a hard WTO Brexit, and what it would then do to ensure wide social buy-in. These are very significant issues. They are clearly going to preoccupy Parliament over the coming weeks, and I congratulate the noble Lord, Lord Tyler, on having brought them to the attention of the House.

3.02 pm

Lord Lisvane (CB): My Lords, I can be extremely brief, as perhaps I should be since noble Lords have heard quite enough from me this afternoon. I pay tribute to the noble Lord, Lord Tyler, for his expertise and leadership on these issues.

It was Emerson who said:

“A foolish consistency is the hobgoblin of little minds”.

I plead guilty to consistency, foolish or otherwise. Noble Lords may recall—indeed, the noble Lord, Lord Young of Cookham, referred to it in his winding up speech in the previous debate—that almost exactly a year ago, at Second Reading of the European Union (Withdrawal) Bill, I asked your Lordships to consider the case of my three elderly and extremely nervous aunts. I wished to give them a treat and asked them to decide democratically what they would like to do. They chose to go to the cinema, but I discovered in the local paper that the only films on offer were “Reservoir Dogs” and “The Texas Chain Saw Massacre”. My conundrum was: do I say, “You must stick with your democratic decision”, or, “Now you know what’s on offer, what do you think”?

It must be for the elected House, not your Lordships’ House, to take any decision on whether there is a second referendum, in the light of knowledge of what is on offer—which at the moment, of course, is not yet clear. Were there to be a second referendum, much would need to be settled, and the noble Lord, Lord Adonis, has given us a preview of some of the things that might

enter into discussion. Those things would need to be settled very quickly. There would be no shortage of those who say that there is no time and it is all too difficult. The Bills presented in the House of Commons yesterday seek to demonstrate that, should the political will exist, that will can be implemented.

3.04 pm

Lord Sherbourne of Didsbury (Con): My Lords, I also am grateful to the noble Lord, Lord Tyler, for having raised this issue. As he said, it is highly topical. Although the speeches today have been confined to the technical issues of a referendum, the reason why it is so topical is that the demands for a second referendum are growing. Indeed, the noble Lord, Lord Tyler, said at the end of his speech that, in the discussions taking place between the Liberal leaders and the Prime Minister, the issue of a referendum is being talked about. Although he said that he did not want to raise the pros and cons of a second referendum himself, I certainly do.

Sometimes one’s predictions are completely wrong. Soon after the last referendum, when we saw how divisive the campaign had been—how toxic its effects and how complicated its repercussions—I thought that nobody of sound mind would ever again call for a second national referendum on anything. How wrong I was. The air is now thick with those demands. I very much hope the other place will not call for a second referendum, and I shall explain why in just two points.

My first point is that one of the fantastic things about this country is how we conduct general elections. Once every four or five years, all voters—whatever their background, employment, educational qualifications or income—can go to a polling station. Everybody is equal. On a Thursday they go to their local library, school or village hall, pick up a pencil stub on the end of a piece of string and simply put a cross on a piece of paper and shove it into a tin box. If the people have voted against the governing party, on the Friday the Prime Minister, the Cabinet and the Government all leave office without a drop of blood shed and without a scuffle in the street. The reason why it is done in that way and the reason why everybody accepts the result, even though more than half the voters may have voted against the new governing party, is that they know that the rules of the game have been observed. That is how you gain consent and acceptance for the result.

When we had the referendum in 2017—

Baroness D’Souza (CB): It was 2016.

Lord Sherbourne of Didsbury: Thank you. When we had the referendum in 2016, everybody knew the result would be accepted. I have here just one example of what the late Lord Ashdown said on the eve of referendum day:

“I will forgive no one who does not respect the sovereign voice of the British people once it has spoken. Whether it is a majority of 1% or 20%”.

For all of us—in or out—when the British people have spoken, we do what they suggest. As Lord Ashdown said, “they command”.

If we have a second referendum, we will be invalidating the result of the first—we will be saying that it did not really count. In fact, by definition, we will also be invalidating the second and beginning to remove a cornerstone of confidence in our democratic system.

My second point is that, in a general election, the electorate delegate to politicians the responsibility for taking complicated decisions. In this referendum we have learned the problems that occur when politicians delegate to the public responsibility for taking a complicated decision. We ought to have realised that this is a very difficult thing to do. The people decided that they wanted to leave the European Union. If the public are now told by the politicians that they are so hopeless, so incompetent, so utterly useless that they have to ask the people to do the job that they should be doing, they will further undermine public confidence in them. We know what happens when that chasm widens. We see it today in many countries in Europe, and we saw it in pre-war Europe in the 1930s. I fear that if the politicians are yet again seen to be useless, saying to the public, “We were no good—we’ll have to hand it over to you again”, the chasm between politicians and the public will become ever wider.

Lord Tyler: I point out to the noble Lord that his two arguments are mutually contradictory. On the one hand he says that we should not respect the results of referenda, for reasons he has just given, and on the other he says that we have to respect that of the 2016 referendum.

Lord Sherbourne of Didsbury: No; I said that we should accept the result of the referendum but that public confidence in the acceptance would be eroded. If we have a second referendum and the public believe that the politicians have said, “We don’t think you made the right decision; therefore, it’s invalid”, they will think, “Why is the second referendum more valid than the first?”

3.10 pm

Baroness Wheeler (Lab): My Lords, I thank the noble Lord for his Question and his speech, and thank other noble Lords for their contributions and expertise, in particular on procedural and technical aspects of the possibility of a second referendum. This is certainly a pertinent Question for Short Debate following the massive defeat in the Commons of the Prime Minister’s withdrawal agreement. Although I think that this Question is premature at this stage, noble Lords are right to ask questions now in case the logjam is such that a second referendum becomes the only answer.

The UCL Constitution Unit’s October report is enormously useful to today’s debate, and I too commend the excellent Library briefing on this. UCL rightly points out that many of the questions are ultimately for politicians to decide, and I shall direct most of my questions to the Minister for that reason.

I hope that in response the Minister will address the actual issues and questions raised by noble Lords rather than just resort to the usual government rhetoric of dismissing the issue as an affront to democracy or a betrayal of the people. As the Minister knows, there is growing support for the need for a second referendum in the face of the chaos we are facing. Today’s letter in

the *Times* from more than 170 significant business leaders supporting a further referendum underlines this and adds to the support from across communities, not just from former remainers. The Labour Party view remains that which we agreed at our party conference last year:

“If we cannot get a general election Labour must support all options remaining on the table, including campaigning for a public vote”.

The clear priority at this point must be to find a way through the impasse.

As noble Lords have said, it is clear from the Constitution Unit’s report that any referendum would take around 22 weeks, or five months. Do the Government agree with this timetable? Given that timescale, the report is also clear that any such referendum would require the extension of Article 50. Can the Minister say what preparations the Government have made for the possible extension of Article 50 and whether any discussions have taken place with the EU at any level regarding an Article 50 extension? I hope that the answer to these questions is not “None”. After the billions of pounds spent preparing for a no-deal Brexit, it would seem ludicrous that no preparations or discussions had taken place for what seems increasingly inevitable.

I also ask the Minister: in the event of the House of Commons voting for a second referendum, will the Government respect that decision and give time for a Bill, such as that tabled by his colleague, Dominic Grieve MP, if the House of Commons wanted it? I would also like reassurance about the process for determining the questions put in any second referendum, taking on board the concerns in the Constitution Unit report that a binary question may not give a clear answer. I also ask for reassurance that the Government will not seek to put no deal on any such ballot paper.

3.14 pm

Lord Callanan: My Lords, I thank the noble Lord, Lord Tyler, for so excellently introducing this important subject and giving us an opportunity to debate it today, and I thank all other noble Lords who contributed.

I will first address the remarks made by my noble friend Lady Browning, who made a number of excellent points, which were amplified by the noble Lord, Lord Adonis. She asked a number of questions about the technical conduct of referenda, and some of her points were also reflected in the report of the DCMS Select Committee and others. The Government are currently considering this matter, but it is not within the purview of my departmental responsibilities—it is a matter for the Cabinet Office—so perhaps it would be best for me to write to my noble friend, and copy other noble Lords, with the detailed responses to her questions.

The referendum held in the summer of 2016 was indeed a historic event for the United Kingdom, a vote for which there was the highest ever turnout for a UK-wide referendum and, moreover, the highest turnout in any election or referendum since 1992. I am sorry to disappoint the noble Baroness, Lady Wheeler, but it is our firm view that there can be no second-guessing of the outcome of such a vote—not when more than 17.4 million people voted to express, in the clearest of terms, an

[LORD CALLANAN]
instruction to the Government, as Parliament had asked them to do, to withdraw from the European Union.

The Prime Minister addressed this in the Commons on Tuesday evening. Despite the vote against the deal, the Government still stand by their commitment to the British people to respect the clear result from the 2016 referendum. In 2016 we committed to respect that vote, and we remain committed now. We continue to work to deliver our exit from the European Union on 29 March—not 20 March. We will not hold a second referendum, and to do so would be to disrespect the result of the 2016 vote.

Lord Tyler: I am sure the Minister appreciates that it is difficult still to say that it is the will of the people that this particular situation should be resolved on the basis of the discussion and decision in 2016 when the latest public opinion poll, published today, shows that 56% of the population—presumably, both leavers and remainers from 2016—are in favour of a new referendum, and only 44% are against. Contrast that with the support for the Government's current deal, and that looks to be a pretty popular way in which the will of the people is being expressed.

Lord Callanan: I understand the firm view of the Liberal Democrats on this; they have been dogged in pursuing it. I do not know whether the noble Lord was in the House yesterday, when I addressed the subject in a Question from the noble Lord, Lord Dykes, on opinion polling and whether public opinion has moved. There are clearly lots of different opinion polls around, but yesterday I quoted an analysis of the opinion polling that has been produced—I do not have it in front of me at the moment—which suggests that in fact, if you look at all the polls in the round, there has been no significant change in public opinion on the issue. The public remain deeply divided on the subject—which of course is why we held the referendum in the first place.

Lord Adonis: My understanding is that, despite what the Minister just said, work is in fact going on in the Cabinet Office in preparation for a second referendum. Would he care to confirm that that is the case?

Lord Callanan: I asked my Permanent Secretary whether any work was going on in DExEU, which is my department, and he confirmed that it is not. He will have to ask Cabinet Office Ministers whether they are doing—

Lord Adonis: Since the Minister is not informed about what is going on in the Government for whom he is responsible, could he write to me afterwards to let me know?

Lord Callanan: I can tell the noble Lord that it is firm government policy that we will not be holding a further referendum.

The question of how we would hold a second referendum on this matter is therefore entirely hypothetical. However, I have been asked the Question by the noble Lord, Lord Tyler, so I will answer it and elaborate on

the process by which we hold referendums. But I reiterate that it is not government policy, and for a good reason.

The practice of holding a referendum is not uncommon in the United Kingdom. Since 1973, there have been 11. In response to the Question of the noble Lord, Lord Tyler, I will set out the process. In the UK, referendums require primary legislation to provide their legal basis: they require an Act of Parliament. The legislation would need to specify details such as the referendum question, the franchise, any amendments to the regulatory framework, conduct rules for the poll, and the date on which the referendum will be held. It would also require a number of other steps, such as question testing, where the Electoral Commission, according to its statutory duty, assesses the intelligibility of the referendum question. There would need to be appropriate poll preparation—the period in which the Electoral Commission and local officials prepare for administering the poll and regulating campaigners—and a regulated referendum period during which regulated campaigning occurs.

This is not a simple process. When considering the practicality of holding a second referendum before March 2019, as both the Prime Minister and the Secretary of State have explained in recent weeks, we cannot have a referendum now in the time available to us before exit.

A number of noble Lords have referred to the UCL report, which I have looked at and discussed with officials, but it remains our view that that timetable is extremely optimistic, given the current state of the numbers in Parliament. For comparison, the previous referendum Act took seven months to pass through Parliament. I remind noble Lords that that was from a Government with a majority in the House of Commons acting on a manifesto commitment, neither of which are the position now. This does not include the time needed adequately to take the other steps; for example, the Electoral Commission recommends that referendum legislation should be clear at least six months before it is required to be implemented or complied with.

We obviously therefore cannot hold a second referendum by March 2019 without a further step, to which noble Lords, including the noble Baroness, Lady Wheeler, referred: extending Article 50. I remind noble Lords that that, too, is not government policy. Aside from prolonging uncertainty for citizens and businesses, such an extension would need the unanimous agreement of the European Council. It is my view, after talking to many officials and other Ministers in Europe, that many commentators in this country are far too blasé about how easily that proposed extension might happen. As I say, it is not government policy and we will not apply for it, but the people who easily assume that it would be granted may be being extremely optimistic.

These calls for a second referendum nearly three years since the clear referendum result are, as the Prime Minister has said—to be fair to the Liberal Democrats, at least they are clear about it—in order to stop Brexit, to move against the clearly expressed will of the people to leave the European Union. Although the Commons voted against the deal on Tuesday, this result tells us nothing about what it does support—nothing

about how, or even if, it intends to honour the decision the British people took in a referendum in which the House of Commons invited them to do so.

A second referendum would be a process, not an outcome—a complex and potentially very harmful process at that. I agree wholeheartedly with my noble friend Lord Sherbourne. Seeking a second referendum, and thus second-guessing the clear result of the previous referendum, would be a dangerous precedent to set for our democracy, as he made clear. If we cannot uphold and respect the result of one referendum, what guarantees are there that we can respect and uphold the result of a second? If we were to have a second referendum, and the result of that was also close, why not make it the best of three? By definition, the people who are calling for a rerun of the original referendum do not respect the results of referendums. It is a recipe for years of political and constitutional chaos and fuel for distrust in government, politics and all of us as politicians.

I hope that noble Lords will forgive me if I take a moment to set out the process before and after the 2016 referendum. As I said, Parliament overwhelmingly voted to put the question of the UK's membership of the EU to the British electorate, allowing them to express a clear view. The simple and clear question was put, and we all know the result. Almost three-quarters of the electorate took part, and Parliament overwhelmingly confirmed the result by voting with a clear majority in both Houses for the European Union (Notification of Withdrawal) Act to empower the Government to begin the process of withdrawing from the European Union.

Let us not forget that at the most recent general election, more than 80% of people voted for parties committed in their manifestos to respecting the leave result. Again, I forgive the Liberal Democrats on this, because at least they were clear in the election what their policy was, and they gained 7% of the vote for their trouble. Parliament subsequently passed the European Union (Withdrawal) Act 2018.

The outcome of the referendum was, therefore, a clear answer to the question, expressing to the Government that a majority of the British public believed that the UK should withdraw from the EU, and we remain committed to respecting the will of the British people and the democratic process which delivered that result. We believe that we cannot compromise the British people's ability to trust in politics and the Government. We will therefore continue to work to find consensus and deliver a deal and an exit which deliver on the instructions of the British people—whether they voted to leave or to remain.

Children and Young People: Digital Technology

Motion to Take Note

3.25 pm

Moved by Baroness Kidron

That this House takes note of the relationship between the use of digital technology and the health and well-being of children and young people.

Baroness Kidron (CB): My Lords, I am very grateful to all noble Lords who have chosen to speak this afternoon, and very much look forward to each of their contributions. I refer the House to my interests on the register, particularly that as founder and chair of 5Rights.

Fundamental to this debate is the fact that we invented a technology that assumes that all users are equal when, in fact, a third of users worldwide and a fifth of users in the UK are children. It has been 150 years since we pulled children out of the chimneys and put them into school. Since that time we have fought on their behalf for privileges, protections and inalienable rights that collectively constitute the concept of, and offer a legal framework, for, childhood.

Childhood is the journey from infancy to maturity, from dependence to autonomy. We design and mitigate for it in multiple ways across all aspects of society. We educate; we require doctors to obtain additional skills to practise paediatric medicine; we do not hold children to contractual obligations; we put pedestrian crossings near schools; we rate films according to age. Children have special protections around sexual activity. It is illegal for kids to smoke, drink and gamble. We even take steps to protect them in environments where adults smoke, drink and gamble.

In short, we provide a complex but widely understood and respected set of social norms, educational frameworks, regulatory interventions and national and international laws reflecting the global consensus that society as a whole must act in the best interests of the child, in the light of the vulnerabilities and immaturities associated with their age. The digital environment fails to reflect that consensus, and the cost of that failure is played out on the health and well-being of our children.

In setting out this afternoon's debate, I shall concentrate on three areas: the nature of the digital environment, my concern about the way we conceive online harms and, finally, how we might support children to flourish. For children in the connected world, there is no off or on. Their lives are mediated by technological devices and services that capture infinitesimal detail about their activities, frame the choices available to them and make assumptions—not always accurate—about who they are. Theirs is not a world divided by real and virtual; it is a single lived experience augmented by technology. The vast majority of a child's interactions are not deliberate decisions of a conscious mind but are predetermined. A child may consciously choose to play a game, but it is machine-engineered Pavlovian reward loops embedded in the game that keep them playing. A child may consciously opt to participate in a social group, but it is the stream of personalised alerts and the engineered measures of popularity that create the compulsive need to attend to that social group. A child may wish to look up a piece of information, but it is the nudge of promoted content and automated recommendation that largely determines what information they receive.

Those predetermined systems are predicated on a business model that profiles users for commercial purposes, yet businesses that sell devices and services in the digital environment deliver them to children with impunity—even though we know that screens eradicate

[BARONESS KIDRON]

the boredom and capacity for free play that very young children require to develop language, motor skills and imagination; even though we know that a single tired child, kept awake through the night by the hooks and notifications of a sector competing for their attention, affects the educational attainment of the entire class; and even though we know that for teenagers, the feedback loops of social validation and competition intrinsic to social media play an overwhelming role in their state of mind and ability to make safe choices.

The children we work with at 5Rights make the case that it is simply not possible to act your age online. As one young boy said, “Online, I am not a kid but an underage adult”. His Royal Highness the Duke of Cambridge said about the tech sector:

“Their self-image is so grounded in their positive power for good that they seem unable to engage in constructive discussion about the social problems that they are creating”,

including,

“fake news, extremism, polarisation, hate speech, trolling, mental health, privacy and bullying”.

Last year, I was in Africa when a young girl was auctioned as a bride on Facebook. I have sat with the parents of a child bullied to death online. I have been with a young girl at the devastating moment in which she realised that she had been taping sexual acts for a group, not just for the man with whom she thought she was in a relationship. I have been witness to scores of children who have ruined their family life, educational opportunities, reputation and self-esteem through overuse, misuse, misunderstandings and straightforward commercial abuse. An individual child does not, and should not be expected to, have the maturity to meet the social, sexual, political and commercial currency of the adult world.

In December, the Nurture Network, a multidisciplinary group of academics, mental health workers and child development experts, agreed that the three existing agencies of socialisation—family, friends and school—have now been joined by a fourth: the digital environment, an environment of socialisation in which the status of children is not recognised. In an interconnected world, the erosion of the privileges, protections and rights of childhood in one environment results in an erosion of childhood itself.

That brings me to my concerns about how we conceive harms. I will briefly raise three issues. First, our public discourse focuses on a narrow set of extreme harms of a violent or sexual nature. Ignoring so-called “lesser harms” misunderstands that for a child, harms are often cumulative. It fails to deal with the fact that one child will react violently to an interaction that does not harm another, or that vulnerable groups of children might merit specific and particular protection. Crucially, it ignores the fact that for most children, it is the quotidian that lowers their self-esteem, creates anxiety, and inflicts an opportunity cost in which education, relationships and physical and personal development are denuded, rendering children—or, should I say, “underage adults”—exposed and unprotected. Children’s rights are deliberately conceived as non-hierarchical. We must take all harms seriously.

Secondly, it is not adequate to define children’s experience of the digital environment in terms of an absence of harm. As long ago as 1946, the World Health Organization declared that well-being was,

“not merely the absence of disease or infirmity”.

The NHS defines it as a feeling of “physical, emotional and psychological” well-being. We must set our sights not on the absence of harm but on a child’s right to well-being and human flourishing.

Thirdly, whether we are tackling the problems of live streaming, child sexual abuse, gaming addiction or thinking towards a new world order in which the fridge knows more about your child’s dietary tastes than you do and can exploit that fact, we must not wait until harm has been done but consider in advance the risks that children face. Technology changes fast, but the risks consistently fall into four categories: content risks, both unsuitable and illegal; contact risks, often, but not always, involving an adult; conduct risks, involving risky behaviour or social humiliation; and contract risks, such as exploitative contractual relationships, gambling, aggressive marketing, unfair terms and conditions, discriminatory profiling and so on. Most experts, including many in the enforcement community, consider that upstream prevention based on militating against risk rather than waiting for the manifestation of harm is by far the most effective approach.

There is much we can do. The Minister knows that I am not short of suggestions, but I will finish with a modest list. The digital environment is now indivisible from other environments in which our legal and regulatory arrangements embody our values. Parity of protection has been called for by the NSPCC. It was the approach taken in the Law Commission’s *Abusive and Offensive Online Communications: A Scoping Report*, and was articulated by the noble Lord, Lord Stevenson, in establishing that the Health and Safety at Work Act 1974 applies equally to artificial intelligence. What plans do the Government have to bring clarity to how our laws apply to the digital environment? Specifically, will the Government bring forward a harmonisation Bill to create an obligation to interpret legislation in a manner that offers parity of protection and redress online and offline, in a similar manner to Section 3 of the Human Rights Act?

Designing out known risk, often referred to as safety by design, is standard across other sectors. We like our brakes to work, our food to be free of poisons and our contracts to be fair in law. The Secretary of State has said that he is minded to introduce a duty of care on the sector. That is very welcome—but to be effective, it must be accompanied by impact assessments, design standards, transparency reporting, robust oversight and a regulator with the full toolkit of persuasion and penalty. Can the Minister confirm that the Government are planning this full suite of provisions?

The age-appropriate design code introduced by this House demands that companies anticipate the presence of children and meet their development needs in the area of data protection. I hope that the Minister will confirm the Government’s determination to produce a robust code across all areas of design agreed during the passage of the Data Protection Act. The code’s

safety by design approach could and should be an exemplar of the codes and standards that must eventually form part of an online safety Bill.

Finally, companies make many promises in their published guidelines that set age limits, content rules and standards of behaviour, but then they do not uphold them. It is ludicrous that 61% of 12 year-olds have a social media account in spite of a joining age of 13, that Facebook says that it cannot work to its own definition of hate speech or that Twitter can have half a million pornographic images posted on it daily and still be characterised as a news app. Subjecting routine failure to uphold published terms to regulatory penalty would prevent companies entering into commercial contracts with underage children, drive services to categorise themselves accurately and ensure that companies say what they do, do what they said and are held to account if they fail to do it. I would be grateful if the Minister could confirm that this measure will be included in the upcoming White Paper.

Technology is often said to be neutral, and when we criticise the sector we are told that we are endangering its promise to cure cancer, educate the world and have us experience space travel without leaving our home, or threatening the future prosperity of the nation. Technology is indeed neutral, but we must ask to what end it is being deployed. It could in the future fulfil the hope of its founders and offer the beneficial outcomes for society that we all long for—but not if the price is the privileges, protections and inalienable rights of childhood. A child is a child until they reach maturity, not until the moment they reach for their smartphone.

3.41 pm

Lord Lucas (Con): My Lords, I am extremely grateful to the noble Baroness for giving us the chance to have this debate. I enjoyed listening to her address very much. I do not join her in all things. My overall view on the large-scale effects of the association between adolescent well-being and digital technology use accords with that of Amy Orben, as published in *Nature Human Behaviour* at the beginning of this week, whose study of large-scale databases found that the overall average effect of digital technology use accounted for 0.4% of the overall well-being of the young people concerned—up there with a fondness for potatoes. In other words, it is extremely statistically insignificant and of no practical significance whatever. The same study pointed out that, on the evidence, the main positive effects on well-being were getting a good enough breakfast, enough sleep and vegetables; and, on the downside, drink, drugs and bullying. In other words, what we are dealing with is looked at on a large scale and on average is not something that children as a whole find it difficult to deal with. However, the fact that something is not a problem generally does not mean there are not specific problems. I thoroughly recommend to the Minister the NSPCC briefing for this debate. I line up behind all its recommendations.

It is important that we properly regulate the social media giants. When they started out, many of us might have believed that at their heart they were good and wonderful and intended nothing but delight and helpfulness to the rest of humanity. I think most of us now realise

that they are exploitative and immoral, with no care for us in any particular way, just like the commercial behemoths before them. Under those circumstances the Government have a crucial role in mediating on our behalf, with the immense power that these organisations have. As the noble Baroness, Lady Kidron, pointed out, there are many things to be done. Some very good intentions have been expressed, and we very much hope that the Government will carry them through.

At local level, schools and parents have to take many decisions concerning social media. We need to encourage sensible, locally decided practice. We want our children to have a life beyond social media—to do homework and to succeed at school. I very much commend to the House the work done by Katharine Birbalsingh at Michaela, where she has an absolute ban on mobile phones in school. That works for her. That is not to say it should be everywhere, but we as a Government should look at good practice, understand what works and tell people about it. We should support parents in making good decisions, as we do in many other aspects of health and family, through good public information. I very much hope that my noble friend will commit to that.

3.45 pm

Baroness McIntosh of Hudnall (Lab): My Lords, I have always had the highest respect for the noble Baroness, Lady Kidron, and her opening speech this afternoon has just increased that respect. It has also almost disabled my ability to contribute to this debate, because I cannot think of a single thing she has said that I do not agree with or can usefully add to. But never mind; I will press on.

I press on as, fundamentally, an analogue human in a digital world. I have had much to learn from the noble Baroness and from other people, for example, from your Lordships' Communications Committee, with whom I have had the privilege to work. I do not want to enumerate the harms; that was done extensively and extremely powerfully by the noble Baroness in her opening speech. I want to put a little context around them and to talk a little about mitigation in one respect.

We must acknowledge what is unique and unprecedented about the challenges we face now, but we should remember that some of what we are looking at is old problems in new clothes. That is not to say they are not problems; I simply say let us not frighten ourselves by thinking that everything is new and we do not know anything. All adult generations fear the harms that may befall their children; that is their job. All innovation creates anxiety, and most new technologies have downsides as well as upsides. Alongside their brilliance and ingenuity, human beings have always had a capacity to turn what they have created to malign as well as benign ends. Then there is the unpalatable truth, but a truth none the less, that physically and intellectually mature humans have always seen immature humans—children—as a valuable resource, seeking to take advantage of their vulnerability for a variety of purposes, individual and corporate. These purposes have historically ranged from child labour, through child prostitution and other forms of sexual

[BARONESS McINTOSH OF HUDNALL]

abuse, to the exploitation of child spending power and, latterly, data harvesting.

The point I really want to make is this. It has long been the job of legislators, working with the institutions of civil society, to articulate where at any time boundaries must be drawn and, where necessary, to regulate and enforce those boundaries. As the noble Baroness, Lady Kidron, said, the idea of childhood as a protected space is relatively recent and, as legislators, we need to recognise that it is under threat from tech companies that do not properly distinguish between children and adults, as the noble Baroness so forcefully described.

The question of how new boundaries are to be set is a matter not only for the Government but for everyone. We genuinely are all in this together. However, it is for the Government to set the tone, and education is one of their most important tools. However, as the 5Rights report *Towards an Internet Safety Strategy* says, education is,

“frequently used to demand that users, particularly children, be resilient to a system that does not respect or protect their safety and security”.

It notes the increasing involvement of tech companies, including Facebook and Google, in education provision. For example, the report points out Google’s educational programmes, widely deployed here and in the US, which present Google as “impartial and trustworthy”, even though the programmes do not address risks associated with how companies like Google operate. Putting foxes in charge of the chicken coop comes to mind.

We cannot reasonably add yet another set of directives and associated sanctions to the duties of hard-pressed schools and teachers without providing significant new resources to help them deal imaginatively with the challenge. By this I mean both a revised curriculum and proper investment in teacher training, both initially and through continuing professional development. There is also a growing need for consistent practical messages from government to parents and other adults, free of commercial bias.

Finally, I want to say what I always say about the value of creative, arts-based education in developing the critical thinking and reflective skills which, in conjunction with other initiatives, our children need more than ever to help them participate fully in the digital future, able to seize the opportunities while understanding the risks. We owe them that. I support everything that the noble Baroness, Lady Kidron, has said and recommended. I hope the Government will confirm that they do too.

3.50 pm

Lord Storey (LD): My Lords, I am grateful to the noble Baroness, Lady Kidron, for securing this debate. I sometimes wonder what the relationship is between digital technology and the health and well-being of adults, particularly when I hear my smartphone ping just as I am about to go to sleep or when an email alert pops up when I am trying to concentrate on an important speech. The focus of this debate, however, is very properly on children and young people, who comprise the first generation of digital natives.

In the Industrial Revolution, the impact on children and young people was significant, especially on those who worked in factories. Health and safety was very much an afterthought, if that. The digital revolution has been much faster and the impact much greater, with much greater penetration: at least 95% of children own or have access to a digital device. To minimise the bad effects of digital technology, action must be taken by central government, providers, advertisers, schools and of course parents.

I am afraid to say that successive Governments have not even attempted to regulate providers in any serious way. In 2017, the Green Paper promised to make Britain,

“The safest place in the world to be online”.

In May 2018, the Government’s response to that consultation recognised, not unsurprisingly:

“More and more people are concerned about safety online ... there are no clear standards for behaviour and ... social media companies are not taking responsibility for what happens on their platforms”.

On mental health, they acknowledged:

“While the evidence around the impact of social media and internet use is not yet conclusive, there are potential negative impacts. These include ... social isolation, competitive pressures, increased vulnerability, increased exposure to abusive content, increased likelihood of cyberbullying and the risk of grooming for exploitation”.

The Government talked about a “digital charter”. If you will excuse the pun, there is as yet little evidence that the Government are getting their finger out. Where is the promised White Paper? Having talked the talk for years, the Government are just beginning to walk the walk. They are considering—only considering—new policy areas,

“on safety that have been identified during the consultation process that warrant further work, including: ... age verification ... policies aimed at improving children and young people’s mental health ... tackling issues related to live-streaming; and, ... further work to define harmful content”.

One example of where the Government’s abject failure has made matters worse is their taking the responsibility for the rating of video games away from the British Board of Film Classification and giving it to the Video Standards Council. It has refused a classification for only one game, and games are littered with violence, sexuality and rape.

Every parent and every adult has a duty to campaign to minimise the damage that digital technology may cause to the health and well-being of children and young people. The NHS 10-year strategy devoted a whole section to coping with the mental health problems of children and young people. Perhaps if we did a little more about prevention, there would be less distress for young people and their families and less pressure on expensive cures. It is incumbent on the Government to do all that they can to regulate at least the worst excesses of the industry, and to provide the resources to schools to ensure that children and young people can become resilient.

One immediate step the Government could take is to finally make up their mind about personal, social and health education. When are the Government going to agree that this should be taught in all schools and provide the resources and the training—and, if they

are short of money, make Google and Facebook pay more than a fraction of their dues in corporation tax? That would provide enough for a decent programme.

3.54 pm

Baroness Watkins of Tavistock (CB): My Lords, I thank the noble Baroness, Lady Kidron, for securing this timely debate on an important topic to society. I reiterate that I have little to add to her excellent speech. I refer the House to my interests as outlined in the register.

As other noble Lords have acknowledged, most children and young people use at least one form of technology on a daily basis. The majority of such use is positive. The internet enables us all to access up-to-date, relevant information which can be an invaluable aid for learning and for homework in particular. Children who live in villages in rural communities, as I do, have seen their opportunities to access information revolutionised with fast broadband, and it is vital that we remember how difficult it was for some young people to connect not only with information but with their families and friends prior to having access to the internet.

Smartphones facilitate us all in keeping in contact with family members and are now used by young people, “digital natives”, to assist with their health needs—the mobile app designed for adolescents to monitor their dietary intake if they have type 1 insulin-dependent diabetes being one example. Similarly, cognitive behavioural therapy for anxiety and depression provided by the internet is widely accessed by our young people, who find it a positive method for accepting delivery of mental health services at a time and place of their choosing. Conversely, we see young people seeking likes and perfection through platforms, such as Instagram, which seem to be linked to increasing anxiety and depression in vulnerable groups.

The excellent Library briefing for this debate outlines, however, that one in 10 children and one in five young teenagers have encountered something worrying or nasty in the past year, including pornography and violence on video-sharing websites. However, it is not possible to determine whether the internet has increased the overall risk to young people or whether it is merely an alternative location for risk experiences which have always been present in society.

We know that the Children’s Society has highlighted the negative impact of cyberbullying and Public Health England contends that longitudinal research has identified the causal relationship between experiencing bullying and poorer health outcomes. We have enough evidence to be certain that there is a relationship between exposure to bullying and mental health problems experienced by young people. Therefore, as we also know bullying occurs both on and offline, we must somehow reduce exposure to it.

Some research indicates that the amount of time that young people spend on the internet may be adversely related to their health and well-being but there remains the need for further research in this area, as outlined in the recent report from the Royal College of Paediatrics and Child Health on the impacts of screen time on young people’s health. This guidance suggests there is no one size fits all, with parents needing to balance the risks and benefits in their family.

Yet parents need guidance free of commercial involvement, as highlighted by the noble Baroness, Lady McIntosh. The one strong recommendation in that report is that young people have at least an hour off-screen prior to going to bed as there is a strong correlation between sleep pattern interference and screen use in the golden hour before sleep. We also have clear evidence that sleep is essential for well-being and good health.

This leads me to two questions for the Minister. If we want to make Britain the safest place in the world to be online, what is the Government’s safeguarding role in terms of monitoring and controlling content that can be accessed by young people, including advertising? Secondly, if, as the NSPCC states in its briefing document for this debate, self-regulation has failed to protect children sufficiently to date, will the Government use their power to introduce a regulatory model that holds social network providers to account to improve the safety of the internet for young people?

3.59 pm

The Lord Bishop of St Albans: My Lords, I, too, thank the noble Baroness, Lady Kidron, for raising this subject and for her outstanding introduction to this debate.

Fifty-five thousand children in this country are classified as problem gamblers. The Gambling Commission’s report, *Young People and Gambling*, published in November, shows that gambling participation has risen, with 14% of 11 to 16 year-olds having spent their own money on gambling. That is a greater proportion of young people than have drunk alcohol, smoked cigarettes or taken illegal drugs.

Today’s children are being conditioned to think that the normal way to enjoy sport is to bet on it—as opposed to what I was brought up with, where you simply enjoyed seeing people competing with one another. They face a barrage of adverts during sports broadcasts. Young people today see an average of 3.8 gambling adverts daily, and 66% of children have seen gambling adverts on TV—a product of the £1.2 billion spent by the industry on advertising. The wild west of the online world is compounding the problems among young people. These digital natives, who are wonderfully adept with technology, are most at risk from the digital switch that the gambling industry is currently undergoing. The many millions of children and young people on social media sites have the option to follow accounts created by the gambling lobby, which often floods the very same sites with adverts, all without any need for age verification.

Yet, more than this, the very nature of gambling is changed by being online. No longer are people limited by how long a bookie stays open and no longer are people easily prevented from gambling if they are underage. Dr Henrietta Bowden-Jones of Imperial College has highlighted how young people can disengage from previously rewarding activities and relationships in the real world and move towards using screens excessively. This is the very seedbed in which gambling disorders can easily take root. The report refers to what any parent already knows: children’s predilection to seek immediate gratification makes them particularly

[THE LORD BISHOP OF ST ALBANS]

susceptible to habit-forming rewards. Take away time limits or age verification on phone and online games, and they can all too easily become addictive.

The online world has changed dramatically since the Gambling Act 2005. Nowadays many in-app games are promoted by popular TV personalities. Before 2005, words such as “loot boxes” and “skins” would have been met with blank stares—indeed, I suspect they still may be from many people in this Chamber—yet they are now commonplace language among young people. It is not simply my opinion that loot boxes function as gambling in everything but name; the Belgian Parliament has outlawed them because of its worries.

This debate is centred on the challenges facing young people. I believe we need urgently to monitor the use of online games that use skins and loot boxes. We need to adopt the precautionary principle in limiting, or preferably banning, online gambling adverts. Therefore I hope the Minister will set out the steps that Her Majesty’s Government are taking to monitor and respond to this worrying aspect of the digital world.

4.02 pm

Lord Black of Brentwood (Con): My Lords, I join other noble Lords in congratulating the noble Baroness on securing this debate. Whenever we discuss this enormous issue, I am reminded of the words of Bismarck, who would no doubt have had a thing or two to say about recent events, who once said that people cannot create or divert the stream of time; they can only travel on it and steer with more or less experience and skill. For all of us in 2019, that stream of time is to be found in the transformative power of digital technology, which is sweeping all before it.

This awesome industrial revolution—for that is what it is—is having its greatest impact on young people. Every aspect of their lives and their careers is being shaped by it. A survey for Ofcom last year showed that one-fifth of young people aged 16 to 24 are so addicted to smartphones that they spend more than seven hours a day online, which is equivalent to more than two full 24-hour days per week. For a generation born at the millennium, smartphones are now an indispensable part of life.

We know what the damaging consequences of digital technology on the lives and well-being of young people can be. Social isolation, cyberbullying, radicalisation and an increased propensity to depression are all very real problems but, used properly, with comprehensive safeguards and with parents and teachers playing an active role in informing children about potential dangers, digital technology can be a fantastic enabler, with a central role to play in educating healthy, happy and well-informed students, making them more literate and developing critical thinking skills. Indeed, perhaps instead of focusing quite so much on the dangers of technology, those involved in the development of public policy should also understand the opportunities and benefits it provides, or we will risk restricting its positive impact on creativity, education and well-being.

One area which demonstrates this positive impact extremely well is music education, and here I declare my interest as chairman of the Royal College of Music. Studying music has a profoundly positive impact on

young people. It increases cognitive ability, improves attainment in maths and English, boosts employability and helps maintain good physical and mental well-being. So learning music at school is absolutely crucial for the way that children develop, although, shockingly, too many people are currently denied that.

Where children are lucky enough to have access to music education, digital technology can assist extremely effectively, although I must underline that it is an enabler, not a substitute, for proper academic learning. The UK music industry is leading the way in developing the technology to support it and to ensure that a musical experience is accessible to all. Key to that is seeing digital devices as musical instruments, allowing teachers to involve everyone in a class.

One teacher I know from the Royal College of Music told me how he used technology in his classroom to enable a performance in public for every year 9 pupil in the school, playing Pachelbel’s “Canon” on iPads. That technology allows pupils to write and rehearse compositions, to provide context for film music, which allows them to see their compositions combined with film, and to learn new instruments at their own pace. Those are fantastic achievements and point the way to the future. A growing number of digital services and websites are being developed to deliver this essential support, including Tido, Charanga and the innovative daveconservatoire.org, which is used by 3 million people around the world and by schools on every continent.

Digital music technology, safely and intelligently deployed, enables all children to learn the vital skills of collaboration and public performance, and to practise discipline, self-direction and the development of an independent creative voice. Those skills are transferable across a whole range of activities and career choices later in life, which is why they are so important.

Of course, we must be alive to the dangers posed by digital technology. We must keep under review the case for greater regulatory safeguards, as we have heard in a number of speeches; ensure that parents and teachers play an active role in educating children on how to use technology as a balanced part of their lives; and make accessible and affordable high-quality educational resources available online—an area where government has a key role to play. If we do that, it is absolutely right that technology should now be at the heart of every child’s education. Our country’s creative economy and the future of music, which are very much in jeopardy, will be all the stronger for it.

4.07 pm

Baroness Howe of Idlicote (CB): My Lords, I thank the noble Baroness, Lady Kidron, for securing this important debate, and for her excellent speech.

Last month we debated the Online Pornography (Commercial Basis) Regulations 2018, which will see commercial pornographic websites placed behind age verification. I very much welcome that decision and ask the Minister to give the House an update on its “go live” day.

I fear, however, that significant problems remain in relation to child access to adult content, as a number of concerns have been raised about the exclusion of

social media from the scope of the regulations. Indeed, in November the noble Baroness, Lady Kidron, noted that the Digital Economy Act 2017, while seeking,

“to restrict children’s access to pornography based on scale ... failed to bring platforms such as Twitter within scope, despite 500,000 pornographic images being posted daily”.—[*Official Report*, 12/11/18; col 1766.]

Clearly this is a subject that needs to be kept under review, and I hope that the Government will address it in the online harms White Paper.

I have been a consistent supporter of parental filters for online services. We discussed this subject in detail during the passage of the Digital Economy Bill in 2017, but I would be grateful if the Minister updated the House on what both large and, crucially, small ISPs are doing about online filtering. The most recent Ofcom report on children’s and parents’ media use and attitudes, published in 2017, says that 39% of three and four year-olds use home network-level filters, as do 37% of five to 15 year-olds. Although this is an increase on previous years, it is still surprising to me that more parents do not use that option. Does the Minister have any new data on the use of filters?

As I said last month, I remain concerned about online gambling. We know that, notwithstanding the Gambling Act, young people gamble online. I very much welcome the Gambling Commission’s efforts to ensure stricter age-verification checks for those seeking to gamble online or who play free-to-play online gambling games. I very much hope that the new licensing conditions proposed in the recent consultation on proposals to strengthen age and identity verification for online gambling will come into effect soon.

I am very concerned to note that in last year’s report on young people’s gambling, 13% of 11 to 16 year-olds had played gambling-like games online, for free and without prizes. Some 40% of those who played online gambling-style games played these before gambling for money. I also note with great concern that information about gambling is easily accessed by young people: 59% have seen gambling advertisements on social media, more than one in 10 follow gambling companies on social media, and they are three times more likely to spend money on gambling. Of those who have ever played online gambling-style games, 24% follow gambling companies online. We are surrounding our young people with messages about gambling from a young age. If we are serious about living up to the licensing conditions in Section 1 of the Gambling Act, I do not believe it appropriate to passively accept this situation.

Lastly, I am concerned that 31% of 11 to 16 year-olds have bought so-called loot boxes, which, as has already been mentioned, allow for in-game purchases. In the 2017 Ofcom report, 30% of parents of five to 15 year-olds were concerned about the pressure on their child to make in-game purchases, and they were right to be so. There is a particular concern about loot boxes, also known as mystery boxes because the purchaser does not know what is in the box—it is an act of chance. A recent academic paper states that,

“loot-box systems share important structural and psychological similarities with gambling”.

The Gambling Commission itself has acknowledged that there is a blurring around the edges of gaming and gambling.

In this context, and again mindful of our obligations under Section 1 of the Gambling Act, I believe that the time has come for the Government to take robust steps to protect children and young people from loot boxes. The DCMS Select Committee in the other place is looking into this issue. I shall read its report with interest, and I sincerely hope we are going to hear more from the Gambling Commission about how many young people are betting on e-sports—that is, competitive video gaming—and whether they are betting with cash or with items won or purchased while playing video games. Above all, we need to ensure that young people do not get drawn into gambling unwittingly.

Viscount Younger of Leckie (Con): My Lords, we are halfway through this important debate and we are very tight for time. I ask Peers to adhere to the four-minute time limit.

4.13 pm

Baroness Greenfield (CB): I thank the noble Baroness, Lady Kidron, for the opportunity to speak in this timely debate. Having been a tutor in neuroscience at Oxford, and as CEO of a biotech company, Neuro-Bio, I shall focus on how digital technology influences brain function.

Humans occupy more ecological niches than any other species on the planet because of our superlative ability, compared with any other animal, to adapt to the environment. Our brains become highly personalised through the development of unique configurations of connections between our brain cells that characterise the growth of the human brain after birth, personalising it into a highly individual “mind” that is in constant dialogue with, and continuously updated by, the environment.

Digital technology opens up an unprecedented environment. Now, for the first time, you can live effectively in a parallel universe: recreation via video games, friendship via social media and learning via search engines. Let us take each one in turn. The World Health Organization and the American Academy of Pediatrics have both recently characterised addictive internet gaming as a psychiatric disorder. The neuronal mechanism of addiction is an enhanced release of the chemical messenger dopamine, which underlies the anticipation of reward, raised arousal levels and the neuronal mechanisms of drug addiction.

We know that dopamine inhibits the prefrontal cortex, a part of the brain that is particularly dominant in humans. This region becomes fully operational only in late-teenage years; until then, there is a well-recognised characteristic profile of recklessness, short attention span and—most significantly—overdependency on external stimulation. An immature prefrontal cortex, coupled with surges of dopamine during video gaming, could result in a mindset driven to have, literally, a “sensational time”.

What of social media? When you meet someone face to face, only 10% of the total impact is dependent on language; much more relies on the tone and volume of your voice, eye contact, body language and of

[BARONESS GREENFIELD]

course physical touch, none of which is available via a screen. If we do not rehearse these skills, we will not be very good at them. Face-to-face interaction will be ever more aversive, resulting in impaired interpersonal skills, increasingly referred to nowadays as “virtual autism”.

What of learning? Two secondary school teachers in Washington DC, Joe Clement and Matt Miles, recently published *Screen Schooled*, a book that persuasively sets out the evidence and arguments that too much screen time has resulted in students who lack focus and critical-thinking skills—and we should remember that information from the screen is not the same as knowledge. The profile of the mid-21st century mindset could comprise: a short attention span, addictive, reckless, low on empathy, and with a fragile sense of identity and poor critical thought.

A key factor is an overemphasis on the sensory pull of the immediate moment, oblivious to any relationship to the past or future. Yet it is just such a linear sequence of a merging of past, present and future—more generally, a beginning, a middle and an end—that characterises the thought process itself, leading to language, sentences, stories, life stories and hence a robust individual identity. Surely we need to promote behaviours that, instead of multitasking, mandate sequencing single actions in a specific order over an extended timeframe—cooking or gardening, for example. Perhaps the most obvious form of sequencing would be reading, ideally from a real book.

Sport is another activity that precludes multitasking. Moreover, physical exercise results in the production of new brain cells, enhanced academic performance and a reduction in mental impairments, not to mention the benefits against obesity.

In 1964, the writer Isaac Asimov predicted life 50 years on. He said:

“The lucky few who can be involved in creative work of any sort will be the true elite of mankind, for they alone will do more than serve a machine”.

It is ironic that excessive use of digital technology may well be eroding the very talents we will need to compete with AI in the workplace of the future. To thrive in our current culture, we need to refocus our priority on nurturing self-confident and thoughtful individuals for whom digital devices do not drive the agenda of their daily life but are merely part of a more diverse toolkit for attaining personal fulfilment in the real world.

4.18 pm

Baroness Benjamin (LD): My Lords, digital technology offers children a range of wonderful opportunities to have fun, create, learn, explore and socialise. However, not all progress takes us forward, because emerging evidence shows that digital technology can expose children to a vast range of online harms: inappropriate content, online gambling, body shaming, the production and distribution of child abuse imagery, and online grooming. The impacts can be devastating. Tech firms are failing our children and they will not take action until they are forced to.

Children make up one-third of global internet users and they see little distinction between their online and offline worlds. The NSPCC has developed an important

set of regulatory proposals to keep our children safe in their digital playgrounds—and it should be listened to. When children consume things such as food, toys and clothes, those all meet standards that let us know they are safe. The online world should be the same. The age appropriate design code is an important step in building child-protection features into the online environment. Platforms should give children the highest privacy settings and make sure that geolocation is switched off by default. A statutory duty of care must be imposed on social networks by a social media regulator with the teeth and power to hold social networks to account and enforce this duty.

The spread of child sexual abuse images is getting worse and increasing in severity among the younger age group. Last year, the Internet Watch Foundation removed a record number of child abuse images from the internet. The IWF has a zero-tolerance approach and thanks to its work the UK has the fastest removal times of anywhere in the world.

The spectrum of online harms, other than child sexual abuse, is not so simple to legislate for, because harm is not recognised in law, or because it is technically difficult to enforce any law that is in place without compromising user privacy. But the Government need to consider the technical, legal and social implications and begin the serious debate about what the future of internet regulation might mean for citizens in the UK. Despite these issues rising up the agenda for concerned parents, many do not know how best to protect their children from harm online. It is up to policymakers to make effective legislation that considers the technical and social issues in dealing with a specific harm.

Play has been a big part of our lives, but a report by the Association of Play Industries—a movement for movement—reveals that today’s children have never moved so little and points to substantial evidence that screens are a key reason. By the age of eight, the average child will have spent one full year sitting in front of a screen. The report says:

“Unless the government takes steps to help parents reduce children’s discretionary screen time, current attempts to tackle childhood obesity and poor mental health are likely to fail”.

For years I have been saying, “Take the television, phones and computers out of the bedroom so children can get a good night’s sleep”. I know that teachers support this.

The All-Party Group on a Fit and Healthy Childhood, which I co-chair, produced a report looking at children’s mental health and the issues surrounding screen time. One of the contributors, Dr Aric Sigman, has written numerous medical papers and concludes that by the time children reach middle adolescence they spend more time using their screens than they do sleeping. That is increasingly linked with risks to their mental health and well-being.

So-called screen dependency disorder covers a wide range of harms, such as compulsive internet use, video game addiction, mobile phone dependency, social network site addiction and so on—all growing problems. One of our report’s recommendations was for policymakers to be vigilant in detecting and publicising conflicts of interest and to familiarise themselves with the influence of the technology companies in lobbying, funding

research and influencing the way the media portrays discretionary screen time and screen dependency disorders. For example, recent media coverage of a report supposedly claiming that screen time is not harmful to children failed to make it clear that the report was about television viewing, which nowadays accounts for only about half of children's screen time. The report did not cover social media, computer games, smartphones or computer use.

Childhood lasts a lifetime, so it is our duty to get it right. Yes, all interventions involving children should be evidence-based, but when it comes to the important issue of keeping children safe from abuse and harm online, we must double our efforts, because we have had 10 years of failed self-regulation. If we do not act now, we risk harming another generation of children, so I thank the noble Baroness, Lady Kidron, for securing this crucial debate.

4.23 pm

Baroness Redfern (Con): I too thank the noble Baroness, Lady Kidron, for initiating the debate and for giving me the opportunity to take part in it. We are all too aware that there is an immediate need for a greater focus and action in preventing cyberbullying online content being published in the first place. Online abuse remains an issue for millions of our young citizens, against the view that what is unacceptable offline should be unacceptable online. The consensus is that abusive or offensive posts should be automatically removed from social media platforms. Government has a major part to play in driving an online world that is fit for purpose for our younger generation, who can in many cases be so easily influenced. This is so that everyone can abide by the values that we all live by, with the attitude and behaviours we duly expect in the offline world.

The use of screens has become nearly inescapable in our daily lives as we search the net to access entertainment, communicate with others, socialise and of course to do shopping. With the development of new technology, most children and young people now use at least one form of technology every day but research demonstrates that cyberbullying can in many cases have serious effects on health outcomes, independent of the effects of traditional bullying. We see that the number of young people being cyberbullied at age 15 is almost double that at age 11, with girls more than twice as likely as boys to report being a victim.

As an interesting aside, it is noticeable that those young people who report come from a background of high family affluence, where they are most likely to say they had in fact been cyberbullied. It seems that young people who are assured and converse well with their parents are more likely to have better health and social outcomes, and be better equipped as they go through adolescence and early adulthood. It is the opposite for those who receive free school meals; they are, seemingly, less likely to report being a victim. Schools and colleges should be supported and encouraged more in their role to work closely with students, not only for academic success but to help them feel safe and have a place to belong. As research has also shown, where young people live—together with a good community environment—can have a significant impact on health and well-being.

Turning to physical health issues, as we witness young people using at least one form of technology every single day, that leads to less exercising. This is more prevalent in teenage girls. The opportunity to exercise more is a given, as it promotes helping to sustain emotional and mental health well-being. It delivers positive steps to improve self-confidence and determination and to manage stress and anxiety, so that our young people feel better about themselves.

Finally, this is about getting the right balance: using digital technology and keeping active. Ultimately, listening to every voice is so important, as it is for them to have fun, as the noble Baroness, Lady Benjamin, said. The Government must make this the safest place in the world for children and young people to be online, and the sooner the better.

4.27 pm

Baroness O'Neill of Bengarve (CB): My Lords, the topic of this debate is often understood in ways suggesting that what is at issue is either a generic problem with the use of online technologies or a more specific problem arising from the use of social media. I declare an interest as someone who does not use social media, but whose life is greatly dependent on digital technologies. We are mistaken if we focus excessively on social media.

The generic problems for children and young people are said to include too much screen time, loss of sleep, educational damage, less social life and less exercise—I agree. The specific problems of social media use by children and young people, but not them only, are said to include a lurid list that runs across the risks of cyberbullying, a loss of privacy, exposure to porn and extremist propaganda and lots more. I agree entirely that each of these can damage young people; for that matter, they can damage older people as well. But the tech companies may, even if pretty belatedly, conclude that failure to curb these harms is damaging their reputations and commercial interests, so they will do more to prevent these harms. How successful they will be remains to be seen. So far, moves to take down harmful material have not been wholly successful.

However, these may not be the most damaging harms done by digital technologies and, more specifically, not the harms which most damage young people. The harms I have mentioned are all private harms in the economist's sense of the term: they are harms suffered by individuals who are bullied or whose privacy is invaded, or whose education is damaged. There is a second range of less immediately visible harms that arise from digital media. These are public harms that damage public goods, notably cultures and democracy.

There is a large and growing body of knowledge about ways in which digital technologies are used to subvert democratic processes, including elections and referenda. It has happened in many jurisdictions. Such use of technology is cheap and its influence can be purchased and peddled by those who are not citizens, including corporations and states, among them hostile states and their intelligence services. Moreover, it can be done anonymously. Our electoral law, which regulates party-political expenditure during campaigns, is pathetically inadequate for dealing with hidden digital persuasion.

[BARONESS O'NEILL OF BENGARVE]

Equally, there is now substantial evidence of the use of digital technologies to undermine the reliability of news and information. This has often been hailed as a point of pride. When Mr Mark Zuckerberg first propounded his now infamous slogan “Move fast and break things”, one may assume that he took it that everything that would be broken would be something unjust and exclusionary that obstructed the dissemination of knowledge and information to the public. In the event, the digital revolution has swept away not only the wicked intermediaries, the censors, but essential intermediaries without whom we would have no serious journalism, no editorial judgment nor reliable ways of telling whether we were encountering fake news or the real thing. The wholesale destruction of intermediaries is a form of cultural vandalism, damaging to all but the perpetrators and the hidden persuaders, and in particular to young people.

I am all for pursuing the agenda of protecting young people from the private harms inflicted by uses of digital or of other technologies, but I think that we short-change the next generation if we do not protect them also from the public harms that such technologies enable. Protection from them will be far more difficult, I suspect, because it will not be in the commercial interest of the big tech companies that organise the data obtained from many sources—not, by the way, always social media—and package it for sale to those who pay to target specific groups for political and commercial purposes cheaply and, once again, anonymously.

In September 2018, Sir Tim Berners-Lee expressed his disappointment about what has happened to the web in these words:

“I’ve always believed the web is for everyone. That’s why I and others fight fiercely to protect it. The changes we’ve managed to bring have created a better and more connected world. But for all the good we’ve achieved, the web has evolved into an engine of inequity and division; swayed by powerful forces who use it for their own agendas”.

We have been warned.

4.32 pm

Lord Ramsbotham (CB): My Lords, I join all those who have thanked my noble friend Lady Kidron not only for tabling this important debate and her masterly introduction but for her relentless concentration on the issue in legislation and on other occasions. I also thank Nicole Winchester for her excellent Library brief.

My contribution will be limited to two personal observations about which I have been asking questions ever since making them. In 1997, as Chief Inspector of Prisons during a thematic review of young offenders, I visited the only young offender institution in Scotland, which I was told had an outstanding governor. To my surprise, as we were walking around, he suddenly said to me that if, by some mischance, he had to get rid of all his staff, the last one out of the gate would be his speech and language therapist. Never having come across such a person in any YOI in England, I naturally asked him why. He replied, “Because the young people cannot communicate, either with each other or with us, and until they can, we cannot begin to know what problems and needs they have or how to begin helping them to overcome them”. He went on to say that too

many of them had never been communicated with by their parents or sat down to meals as a family, being dumped in front of the television or encouraged to play on their electronic devices, leading to their being able to communicate only in “binary grunts”. Having met his wonderful therapist, I learned what she was able to do for both young offenders and staff. I have been campaigning ever since for such a therapist to be appointed in every YOI. This inability to communicate is the scourge of the 21st century, for which I hold the amount of time children and young people spend using digital technology partly to blame. As the Library briefing points out, the range of topics relating to the impact of digital technologies on the health and well-being of children and young people is vast and there is no clear agreement on the impact, positive or negative, of screen time on an individual’s well-being.

My second observation is based on my chairmanship of a criminal justice and acquired brain injury interest group, which has a particular interest in the effects of such injuries on the developing brains of children and young people. Possibly influenced by evidence of a possible link between brain tumours and excessive use of mobile phones, there are those who suspect that too much digital technology use may cause damage to the growing brain. Hard evidence is impossible to come by, largely owing to the technology being comparatively new. Two years ago I remember being shown two scans, one of a 10 year-old’s brain taken 10 years ago and one taken that year. You did not have to be an expert to see that there were differences, which might be because they were different people. Experts admitted that they could not interpret the difference or what it meant in the long term, but it was sufficiently worrying for them to say that, while it was too early to predict any long-term implications, excessive use of digital technology could not be ruled out as a possible cause.

4.36 pm

The Lord Bishop of Chelmsford: My Lords, an unregulated digital environment is causing moral decay. There is no time to reiterate the various harms that are being caused, but they are deep-seated, corrosive and pervasive. Just last week I was at a school in Essex talking to 7 to 11 year-olds about their use of a game called TikTok. All of them were using it. The lower age limit for using it is 13. As the noble Baroness, Lady Kidron, pointed out, the digital world assumes that all users are equal and all users are adults, whereas in fact one-third of users worldwide are children. Therefore, their health, well-being and development require us to ensure that the internet, and the many ways that children access it, are as safe as they can be. This has usually meant creating special safe places for children or safety options that can be activated.

Would it not be better to turn this whole approach on its head? With any other public space, be it a cinema, a shopping mall or a city square, our assumption is that this is a safe place for all ages to gather and therefore safe for children. Regulation and, where necessary, legislation supports this view and then we create dedicated spaces for adults—not the other way round. In the cinema we do this through film classification. In a public park or a city square we do it through

public order legislation. The internet is a public space. Indeed, for children and young people it is the public space. This means that regulation and guidance to make the internet safe by design are all the more necessary. Far from inhibiting the internet, as some vested interests claim, it will enable the internet to be the democratic, creative and liberating space it is meant to be. It is the lack of regulation that makes it dangerous and debilitating. Achieving a common standard does not make the internet restrictive for adults; it just means that we apply the same principles to all parts of our common life.

Let me put it another way. In the 1970s we added fluoride to water and to toothpaste. Dental hygiene was transformed. We stopped dealing with the symptoms of tooth decay and designed a way of improving everybody's health. There is an important philosophical question here. What sort of world do we wish to build in this digital age? It is no good shrugging our shoulders and saying that it is all too difficult. Nor is it acceptable for Facebook, Google and Amazon to say that they are not to blame because they are just platforms. They curate the way we receive the information they gather, and this gives them a powerful editorial voice. Increasingly they are publishers as well, and their big bucks distort the whole ecosystem of our media economy. They are creating monopolies that it is hard to imagine us tolerating in any other industry.

The forthcoming report of the Communications Committee—on which it has been my privilege and education to sit, alongside the noble Baroness, Lady Kidron—will present some recommendations on how we might regulate the internet. Most of all, we need to make it safe by design, and teach children how to inhabit it. Without this, we will sell them short and allow the liberating genius of the internet to be compromised and stymied. In other walks of life, if it were your child in the betting shop or flicking through a pornographic magazine, with their worldview being shaped by an increasingly narrow echo chamber of gossip, speculation and fake news, you would want to do something about it. That is our job. We need to find a way of putting fluoride in the internet.

4.40 pm

Viscount Colville of Culross (CB): My Lords, I too thank the noble Baroness, Lady Kidron, for securing this debate. I rise to express my concern about one particular way in which the internet can adversely affect children's health—online gaming addiction, which has already been mentioned by the noble Baroness, Lady Greenfield.

Gaming on the internet is enjoyed by millions of adults and children across the world. For them, it is the most wonderful form of stimulation, and a way to interact with friends and family. But for a minority of young players it can turn into an addiction. It mainly affects young men aged 12 to 24, and the results can be devastating. They can play up to 16 hours a day and their escape into a virtual world can devastate their lives, their schooling and their family. Games are becoming ever more complicated, with ever more attractions, and as a result they are becoming ever more addictive.

I would like to share with your Lordships the case of one young addict. Let us call him Troy. He reported to his local child and adolescent mental health services at the age of 15, suffering from long-standing low mood and suicidal thoughts. The therapist discovered that for the past year he had been gaming for up to 15 hours a day. Not surprisingly, he was becoming isolated and lived as a recluse, reluctant to leave the house for any reason. His single-parent mother tried to restrict his excessive gaming, but stopped when he threatened suicide.

Troy was diagnosed with internet gaming disorder. The therapists set him a reduction plan and encouraged him to develop activities beyond the game. But, after initial success, he was encouraged by fellow players to go back. Soon he was back up to 14 hours a day. When at the start of the new term he was forced to stop playing, he became so distressed that he tried to jump out of his bedroom window. Doctors discovered that Troy's levels of brain stimulation, from extended online gaming, were similar to those of people who had taken amphetamines and other stimulants. The addiction can lead to depression, paranoia and difficulty in enjoying the simple pleasures of life—eating, walking or meeting friends.

This and other case studies are just anecdotes, but this form of addiction is so new to psychiatrists and to policymakers that, although they are aware of the increasing problem, they do not have a definitive way of measuring its extent. The World Health Organization is considering including gaming disorder in the international classification of Diseases 11 at the May meeting of the WHA. Its inclusion will be a vital step in enabling clear diagnosis of the condition, and in providing a standardised tool for comparing the problem in different countries. I urge the Minister to ensure that the Government support this move.

As policymakers in this country grapple with the issue, they can take some guidance from China and South Korea, where gaming addiction is widespread among young men. They are working with parents and schools to raise awareness and prevent the spread of the addiction. But Asian policymakers are also working with manufacturers to reduce the addictivity of games. They have had some success: one game now sends a message warning the player of how long they have been playing; another can be set to time out after a certain number of hours. This work needs to be put on a more systematic basis. We already have regulation for sex and violence in games; this should be extended to regulating their addictivity as well.

If and when we leave the EU, I suggest that the Government investigate how EU regulations in this area would work. They should bring together stakeholders to rate the addictivity of existing games and horizon-scan new games. This could be done through a new regulatory body, but I hear the groans from DCMS at the great difficulty of doing that. Maybe we should just extend the remit of the Gambling Commission to cover gaming. These regulations could certify games with a score, warning players of their addictive nature. They could also work on preventive measures to ensure that vulnerable children are protected, particularly during their teenage years. Above all, they could co-ordinate work with

[VISCOUNT COLVILLE OF CULROSS]
gaming companies to build in more ethical design. It would create a win-win situation, encouraging trust in the companies and allowing all players to have an entertaining time playing games rather than becoming addicted. I urge the Minister to act now before further damage is done to our young people.

4.45 pm

Lord Richard (CB): My Lords, I too thank my noble and formidable friend Lady Kidron for securing the debate but also for keeping people aware of the issues we have been talking about today. Everyone who has spoken today has pointed out that digital technology and the web are not risk-free, especially for young people, and we have a responsibility to safeguard our children and to bring some order to what the NSPCC has called the “Wild West Web”. I am therefore very pleased to welcome the promise of an online harms White Paper. Some of us heard from the Secretary of State about this earlier in the week. I will say only that this should no longer be delayed; the risks are substantial, obvious and growing, and this is an urgent problem for us to address.

The NSPCC and the London Grid for Learning recently carried out research which showed not only that 24% of all children have been involved in live streaming and video chatrooms but that 12% of those children have video chatted with someone they do not know, while 6% who have live-streamed have been asked to change or remove an item of clothing. These are specific examples of the risks and dangers. In spite of this, very few live-streaming sites have taken proactive steps to monitor activity for abuse, to introduce effective moderation or to design in safety practices. All these are possible but they have not been done. As a result, it is now as likely that grooming will take place online as offline.

One of the most popular online games is called Fortnite. I know that some noble Lords play it regularly, but for those who do not, it has upwards of 45 million players. One of its most popular modes requires you to create an account by providing an email address or username. The game is rated 12-plus by the App Store but there is no age verification, so plenty of children under 12 play the game and are encouraged to do so because of the social media coverage, so as not to feel left out. The game also provides an unmoderated chatroom; it can be disabled, but most parents would not be aware of that—assuming they are even aware that their child is playing the game. The risks are obvious.

I want the Government and providers to take practical action to address those various risks, rather than just offering warm words. First, social media companies should be expected to direct resources to artificial intelligence—as the noble Baroness, Lady Harding, who is unable to be here today, has suggested—to detect under-13s using their platforms, given that the Children’s Society found that 61% of young people had a first account at the age of 12 or under.

Secondly, live-streaming sites should be required to adopt and publish specific standards that ensure that children are able to communicate only with approved

contacts. The provider should be required to introduce real-time moderation, and again, algorithms should be used to detect inappropriate activity on site.

Social networks should be required to tell parents and children how safe their networks are, measured against clear criteria, how they maintain those standards and how they deal with reports and complaints. Yes, I absolutely agree with those who have suggested that the time must surely have come for an independent regulator to establish mandatory child safety rules. Every attempt at self-regulation has failed, and the industry has now had its opportunity to self-regulate.

Finally, I would like companies to follow the example set by O2, which is working with the NSPCC to provide advice to parents on the controls that can be introduced to keep their children safe online. The fact is that many parents are simply unaware of the dangers and how they can mitigate them. As I said, the Secretary of State has promised a White Paper. It needs to be produced very quickly. There is no reason why some of the things we have spoken about today cannot be introduced before the White Paper or legislation.

4.50 pm

Lord Clement-Jones (LD): My Lords, I add my thanks to the noble Baroness, Lady Kidron, for initiating this important and extremely well-informed debate. She did it in such a thoughtful way, especially in emphasising the positive right of the child to flourish and the importance of harm prevention in this context.

Since we debated the first Digital Economy Act 10 years ago, public understanding of and attitudes towards the internet have changed markedly. Several noble Lords emphasised the benefits of digital technology, but in that time evidence has mounted of the effect of social media and connected devices on young people in particular, impacting on their health, mental well-being and educational attainment. The noble Lord, Lord Ramsbotham, unpacked that issue in an extremely instructive way.

Of course one could debate further the impact of the internet and digital technology on our democracy, as the noble Baroness, Lady O’Neill, demonstrated, but today I fear I have little time and it is necessary to concentrate on online harms to children. It has become clear that people—children and adults—should have the same rights online as they have offline. As the noble Baroness, Lady Redfern, said, we must align online and offline behaviour and recognise the unique dangers that online access sometimes poses.

This House has already had an impact through the limited amount of regulation we have been able to impose on the internet. Too many Members are involved for me to mention them all, but there are the age-verification provisions; the age-appropriate design code, which was the inspiration of the noble Baroness, Lady Kidron; and the new offence of revenge porn, which my noble friend Lady Grender was instrumental in introducing, with government support, through the Criminal Justice and Courts Act.

However, so far, government efforts specifically to deal with the abuses of social media have been extremely limited and there is still a culture of hands-off regulation of the internet, which favours the platforms. Indeed,

as my noble friend Lord Storey pointed out, in the case of classification of video games, we have gone backwards. As he mentioned, we have had the Government's digital charter, a Green Paper before that, and the Government's response last May to the internet safety Green Paper. As many noble Lords have mentioned, we are also promised shortly a White Paper on internet safety strategy, which will set out plans for legislation covering,

"the full range of online harms, including both harmful and illegal content".

Can the Minister convert that promise of "shortly" to "imminently" today? That would be an improvement to many minds.

The Secretary of State for Health last October asked the Chief Medical Officer to review the impact of too much social media use on children's mental health and draw up guidance to help patients. Simon Stevens, the chief executive of NHS England, suggested that Ministers should consider taxing social media giants such as Facebook and Twitter to,

"help stem the tide of mental ill-health",

or,

"at least help pick up the pieces".

That is all heading in the right direction, and I hope it demonstrates the White Paper's direction of travel. However, where is the promised interim review from the Chief Medical Officer?

In her report last year, *Who Knows What About Me?*, the Children's Commissioner, Anne Longfield, set out a series of recommendations on what our policy-makers should do to protect children. As advocated by Carnegie UK Trust, she believes that a statutory duty of care should govern relations between social media companies and the audiences they target. Recently, Ofcom has argued for tech companies such as Facebook and Google to be regulated in the same way as the mobile phone and broadband industry. I do not believe that this goes far enough, but it is interesting nevertheless that Ofcom, which is not known for its proactivity in this area, is prepared to argue for that. The noble Baroness, Lady Williams, has said that the Home Office is considering the idea of an online safety commissioner. Those are all good indications.

Of course, many broadcasters have also got together to call for the independent regulation of online platforms' operations in the UK. I pay tribute to the noble Baroness, Lady Lane-Fox, who has been almost as redoubtable a campaigner in this area as the noble Baroness, Lady Kidron. Last year, dot everyone produced a report entitled *Regulating for Responsible Technology—Capacity, evidence and redress: a new system for a fairer future*. As a number of noble Lords mentioned, the NSPCC has come up with an interesting combined scheme with suggestions for not just a duty of care but a regulator to enforce a set of compulsory standards through that duty. What the noble Lord, Lord Bichard, said about the possible ingredients of that was very good. The right reverend Prelate the Bishop of Chelmsford mentioned the House of Lords Communications Select Committee, of which he is a member. We all await with bated breath what I hope will be a worthy successor to its excellent report, *Growing Up with the Internet*.

It is becoming clear that we need the Government's internet safety White Paper to be much more strategic and comprehensive in nature, and to have real teeth in terms of standards, regulation, transparency of reporting and enforcement. To cap it all, if the Government have not written the White Paper already, I hope that they will take serious note of the excellent 5Rights paper, *Towards an Internet Safety Strategy*, for which the noble Baroness, Lady Kidron, was responsible. It sets out seven pillars of a safety strategy in a comprehensive framework. As the noble Baroness, Lady McIntosh, my noble friend Lord Storey, the right reverend Prelate the Bishop of Chelmsford and other noble Lords have emphasised, it is down to the Government to regulate this area. The Government should absolutely be proactive here.

As my noble friend Lady Grender stated so eloquently in the November debate initiated by the noble Lord, Lord Stevenson, this is about recognising that parents can do only so much to protect their children from online harms. I am the parent of an online gamer and the uncle of a pioneering addiction researcher, so I am particularly aware of some of the issues here. Of course, the noble Baroness, Lady Greenfield, is the expert, but the former Facebook president backed her. He let the cat out of the bag by stating that social networks had been designed to "exploit" the psychological vulnerabilities of their users, and that "dopamine hits" are built in to create addiction. That is what the algorithms are designed to deliver. It applies to gambling and gaming just the same.

We heard from a number of noble Lords, including the noble Baronesses, Lady Watkins and Lady Greenfield, about screen time. It is very instructive, is it not, that so many senior tech executives in Silicon Valley send their children to Waldorf schools—the equivalent of our Rudolf Steiner schools—which limit screen time? They believe that screen time has a major impact. I am not sure that I buy what techUK said in its briefing to us about the impact of screen time. The jury may be out on this, but I am afraid that I am pretty sure in what direction it is going.

We might pick and choose which regulator would be specific to this area. It could be the ICO, which has been very effective in the data field, it could be Ofcom or it could be a special commissioner. Nevertheless, we need to make sure that that body has the right resources and that we put the responsibility on to a single organisation so that we know who is accountable.

I do not have time to follow up on many of the points made by my noble friend Lord Storey about education, but it is absolutely crucial that our children are digitally literate—indeed, it is important that adults are digitally literate. That can be achieved in part through PSHE and partly through the kind of creative education that the noble Baroness, Lady McIntosh, talked about. However, ranging more widely, I would mention again the dot everyone organisation, because its identification of digital blind spots and how we are targeted by social media and digital technology is extremely important. We have to make sure that this is not just the responsibility of our teachers, and that we have in place other mechanisms to ensure that we achieve a high level of digital literacy. I have a huge

[LORD CLEMENT-JONES]

amount of time not only for everyone but for people like the Good Things Foundation, which is doing a great deal in the community in this respect. We must ensure that we know who has power over our children, what values are in play and when that power is exercised. It is vital to the future of our children, to the proper functioning of our society and to the maintenance of public trust.

5.01 pm

Lord Griffiths of Burry Port (Lab): My Lords, this has been an extraordinary debate. The noble Baroness, Lady Kidron, and I met on the internet, or at least in a debate on the internet. I had responsibilities thrust upon me that I was quite unprepared for when the Data Protection Bill came to this House. There were three female Members of the House, the noble Baronesses, Lady Harding, Lady Kidron and Lady Lane-Fox. The three graces were truly extraordinary in providing the educational material that I took away, most of which I had been ignorant of before. It is so nice to see sitting beside the noble Baroness, Lady Kidron, the noble Baroness, Lady Greenfield, who once upon a time I interviewed when she arrived in startling fashion on a motorbike and in leather gear. It is good to see her in her place. She has extraordinary expertise and I do not know what kind of neuroscience it takes to produce the results that she has clearly mastered.

Last week, we had a debate about the influence of sport and the arts on the well-being of children, so this issue is clearly in the air. We do ourselves no favours if we simply forget the fragility of the young. I have always felt that poetry can tell us about how children have within them the capacity to flourish but also the readiness to live and die. Dylan Thomas wrote a famous short story about a visit to Swansea beach and he said it all:

“But over all the beautiful beach I remember most the children playing, boys and girls tumbling, moving jewels, who might never be happy again. And ‘happy as a sandboy’ is true as the heat of the sun”.

We must hold on to a picture of the child who is ready to become an adult and inhabit a world that the rest of us would want to warn them about. We must treasure the moment of a child being not quite there yet. I love the spring. I love flowers in bud. I love everything that has potential rather than the actual. It is that potential which I hope we can keep in mind as we talk about these things here today.

Since that meeting on the internet, I have made it my business to become more educated about something I was so ignorant of. My latest incursion into that field is to read this extraordinary book, *Democracy Hacked: Political Turmoil and Information Warfare in the Digital Age* by Martin Moore. It truly is an eye-opener about not just the potential but the real danger that faces us. Now I am retired, I never buy a book other than on the basis of two good reviews, one of which said:

“The digital age was supposed to be democratic, but under Google, Facebook and Twitter it has become a quest for profit at any cost”.

Let me read just one paragraph from the bit of the book that looks at young people and education:

“Tech CEOs know nothing in particular about education, for another thing”—

he had been talking about the health service—

“but are canny enough to see that it is a huge potential revenue centre, if only they could persuade schools to use their software and computers. Actually, Google is already doing a very good job of that. By mid-2017, the majority of schoolchildren in America were using Google’s education apps, which of course track the activity of every child, creating a store of data that—who knows?—might come in useful when those children grow up to be attractive targets for advertising”.

These are the algorithms to which the noble Lord, Lord Clement-Jones, referred.

We have aired well enough the dangers and our fears for the uncritical use of these various modes of imparting information. Various learned bodies have given it their attention too. We heard from the noble Baroness, Lady Watkins, about the report from the Royal College of Paediatrics. It talks about the impact of children who lose parental control, are compulsive in their use of media, indulge in self-harm and suicide, et cetera—a whole list of stuff—but prefaces that list of potential difficulties by admitting that research into and training on the concept of addiction and gaming is needed. We can pick up the remarks about gambling by the right reverend Prelate the Bishop of St Albans and others. I have made the point in previous debates that the research deficit is worrying. We need to have empirical research and to dedicate real resource to accumulating it in a managed way so that we can all use and learn from it.

I must not go on, because we have run on longer than we should have, and I will try to be responsible. I read in the Library briefing that:

“Children see as many as nine junk food adverts during one 30-minute episode of their favourite TV shows, so it’s not surprising this leads them to pester for, buy and eat more unhealthy foods”.

It seems the world of advertising is geared towards getting profit from whatever strata of society it can, including children and young people, and at the expense of their well-being.

I will respond to hints and body language from across the Floor. We attended a meeting earlier this week where the Secretary of State promised a significant piece of legislation that will be all-encompassing, the first in the world and the greatest ever made. We will, of course, measure success as it unfolds. That meeting has put me in a position to be able to inform the noble Lord, Lord Clement-Jones, of the real meaning of “shortly”. But I believe that is a responsibility for the Minister, and I leave that to him now.

5.09 pm

The Parliamentary Under-Secretary of State, Department for Digital, Culture, Media and Sport (Lord Ashton of Hyde) (Con): My Lords, I am very grateful to the noble Lord for curtailing his remarks—I sometimes feel that he could go on for a lot longer. I also thank the noble Baroness, Lady Kidron, for convening a debate on this important subject and for discussing it with me beforehand. Finally, I thank all noble Lords for their contributions. I will race through my response because I want to leave a minute or two for the noble Baroness to respond.

We all agree that the internet offers a huge range of opportunities and benefits. However, as we heard today, there are legitimate concerns about the relationship

that young people have with digital technology and the impact it can have on their health and well-being. A great deal of work is taking place across government, and I will come to some of the remarks made by the noble Lord, Lord Storey, on that. Work is also ongoing in the tech sector, health services and the education sector to ensure that young people can access the benefits of the internet safely. However, we recognise that more research is required to better understand the impact that the digital world can have on health and well-being. This is new technology, changing before our eyes, so it is not surprising that we are experiencing unintended consequences, nor that the evidence is incomplete and sometimes contradictory, as the noble Lord, Lord Ramsbotham, mentioned in his excellent speech.

The noble Lord, Lord Storey, was a bit dismissive of the digital charter. However, through the charter we have already seen age verification, age-appropriate design, data ethics and innovation bodies set up, the Green Paper and hours of interaction within the sector. There is of course more to do, and I will come to that in a minute, but we have not been doing nothing in the meantime. The principle is ambitious—to make the UK the safest place in the world to be online—and we want to achieve it. That will include taking specific steps to support children and young people.

The forthcoming joint DCMS and Home Office online harms White Paper will be published this winter. It will set out a range of non-legislative and—I say this to the noble Baroness, Lady Benjamin—legislative measures detailing how we will tackle online harms. It will set clear responsibilities for technology companies to keep all UK citizens safe, particularly children and other vulnerable users. There are, however, difficult lines to be drawn between liberties, freedom of speech, the freedom of the internet and protecting the public. We will therefore continue to encourage participation as we further develop our proposals. As has been mentioned, the Secretary of State had a useful first meeting open to all Peers on Tuesday this week, and we will encourage further discussion with Peers as the process goes on. I will say more about the White Paper in a minute.

We spend a lot of time in this House and at the DCMS talking about harms, especially to children, but it is important that we acknowledge the benefits of digital technology and social media. As my noble friend Lady Redfern said, it is about balance. The technology enables young people to access educational resources, make social connections, build relationships and demonstrate their creativity. It has impacted every area of our lives: the genie is out of the bottle and we cannot put it back. We therefore need to find solutions.

While we recognise the benefits, we also understand the concerns about the impact that digital technology may have on young people's physical and mental well-being. The impact may relate to the device itself or to the content being accessed. For example, we know that parents and professionals are concerned that digital technology can lead to a lack of sleep and a lack of exercise, both of which are well documented as playing an important role in maintaining good health and well-being. There are also concerns about the impact

of specific online harms which may not be illegal, such as cyberbullying, the encouragement of self-harm and online grooming. More generally, there are concerns about the impact of celebrity culture, disinformation and the pressure to live up to unrealistic portrayals of other people's lives.

We have seen in recent years that the technology industry can deal with some of those harmful impacts through technical solutions and guidance—for example, filters and new well-being tools—and parents can use apps to set controls to limit their children's access. Some of the big technology companies have provided resources for teachers and parents, so they are doing something. However, I am not suggesting that this will get them off the hook.

We recognise that companies can do more and, in particular, our internet safety strategy consultation highlighted that users, civil society organisations and professionals working with children felt that platforms needed to do more to manage the content and behaviour on their platforms. In addition, more can be done to make technical tools more effective and guidance more accessible.

The online harms White Paper I have mentioned will concentrate on supporting everyone's ability to access the benefits of the internet while staying safe. In answer partly to the opening remarks of the noble Baroness, Lady Kidron, it will consider how we will protect children and vulnerable people in particular, and outline measures targeted at improving children's safety online specifically.

Although we have had some success working with companies at a voluntary level, legislation is necessary to ensure that progress is extended across a greater range of platforms—we are not talking about only social media—and replicated in countering a wider range of online harms, and to give confidence to the public, which is important, that standards apply to and are enforceable on all platforms.

The White Paper will establish a government-wide approach to online safety, delivering the digital charter's ambitions of making the UK the safest place in the world to be online, while leading the world in innovation-friendly regulation that supports the growth of the tech sector. It is a complex area and we are taking a thorough and traditional policy approach. We had the publication of the Green Paper, a consultation and the Government's response, and now the White Paper which will precede legislation.

The noble Lords, Lord Clement-Jones, Lord Bichard and Lord Storey, implied that progress was slow. However, this is a complex area so we are taking it at a reasonable measure. We expect and earnestly hope that we will be able to legislate, I have been asked to say “imminently” rather than “shortly”, but I have been around long enough not to get involved in that game. At least I did not say “in due course”. We wish to proceed and get to legislation once the White Paper has been discussed.

We are also engaging with industry, civil society, peers and academia, who sit at the heart of our operation, which we hope will enable us to develop world-leading law that is future-proof. As well as setting out the expectations for the tech industry, it will highlight the role of education and technical

[LORD ASHTON OF HYDE]

solutions in supporting young people online, and will build on the important work which the Department for Education has already taken forward in relation to ensuring that children are taught about online safety in schools.

Let me turn to what we know about these problems. There are, rightly, concerns about the impact of digital technology on young people's health and well-being. We realise the need to build evidence about specific harms and to ensure that consistent advice is available. As has been mentioned, the Chief Medical Officer, Professor Dame Sally Davies, has commissioned a systematic evidence review of the impact of social media use on children's and young people's mental health. This review covers cyberbullying, as referred to by the noble Baroness, Lady Watkins, and we understand the issues around safeguarding in this respect. It covers online gaming, sleep problems and problematic internet use—also known as internet addiction—where there is a social impact.

I have found the evidence, particularly as described in the media, confusing and sometimes contradictory. The only overwhelming view seems to be that we should not look at a screen before we go to bed—which, incidentally, most people should do earlier for optimal health. We are continuing to work closely with the Department of Health and Social Care, and the Secretary of State there, a former DCMS Secretary of State, knows about the issues concerning digital.

I shall try to deal with a few questions quickly as I have not got much time. The noble Baroness, Lady McIntosh, and the noble Lord, Lord Griffiths, mentioned education. I reassure them that we think that the arts are very important in that. In fact, quite a lot of work is being done in the Department of Health about arts for health. Although we are behind this and are making the case in government, we hope we have the Department of Health with us on that.

Perhaps I should start on the questions asked by the right reverend Prelate the Bishop of St Albans about gambling as this is the third day running I have been talking about this. I shall be very brief because I have a lot to get through. In 2017, the Gambling Commission set out its continued commitment to tackle issues arising from a potential convergence between gaming and gambling, and to look at developments such as skins betting and social casino gambling. In September 2018, the Gambling Commission, along with 16 other regulators from Europe and the USA, signed a declaration which outlined common concerns about gaming and gambling. It is also seeking to work with the video games industry to raise awareness of this.

The noble Viscount, Lord Colville, asked about online gaming and addiction. The response to the *Internet Safety Strategy* outlined how we will work with online platforms and agencies, such as the Video Standards Council Rating Board, trade bodies and others, to continue to improve. He can look at that. I am not going to go through it in detail now.

The right reverend Prelate and the noble Baroness, Lady Howe, asked what we are going with regard to loot boxes. The Gambling Commission has strong powers. We are aware of the concerns that entertainment

products such as video games could encourage gambling-like behaviour, so we will look at evidence around that very carefully. The Gambling Commission is aware of that.

The noble Lord, Lord Ramsbotham, talked about the importance of communication, and my noble friend Lord Lucas talked about parents. It is important that we do a lot to help parents because they may not have the skills needed to supervise what their children are doing. That was certainly highlighted in the *Internet Safety Strategy* consultation. We were keen to receive more information on data protection, mental health impacts, et cetera. The new UK Council for Internet Safety will be tasked by the Government to review current online safety materials and to identify any gaps. One problem is that parents frequently express an interest but do not turn up to schools, for example, when these things are discussed, so we will have to be imaginative in looking at how we can help parents. The Chief Medical Officer is going to consider providing advice for parents in spring 2019, which I think the noble Lord, Lord Clement-Jones, mentioned. Also, the Royal College of Paediatrics and Child Health recently published *The Health Impacts of Screen Time: A Guide for Clinicians and Parents*, which the noble Baroness, Lady Benjamin, asked about.

The noble Baroness, Lady O'Neill, asked whether we were dealing with disinformation in the online harms White Paper or in another way. The UK Government take the issue of online manipulation very seriously, and tackling disinformation is already a key pillar of the digital charter. We will explore how we can use measures in the White Paper to address its harmful impact on society. I can also tell the noble Baroness that, as I mentioned before, we are not confining the online harms White Paper to social media.

The noble Baroness, Lady Kidron, and the right reverend Prelate the Bishop of Chelmsford talked about safety by design. That is absolutely critical and we agree with it. We will get updates from tech companies that are developing new products to ensure that internet safety, cybersecurity and data protection are all part of the design process.

I am afraid that I have to stop. I have a lot more to say and will write to noble Lords, but I want to leave a couple of minutes for the noble Baroness, Lady Kidron. I thank noble Lords for all their questions, and I realise that we have more to do. I finish by saying that we are committed to ensuring that the UK is the safest place to be online and we will work with a wide range of partners, including the tech industry, civil society and online safety experts, to ensure that young people can fully access the benefits that the digital world can bring safely and with confidence that tech companies and platforms will act in a responsible manner.

5.25 pm

Baroness Kidron: My Lords, this has turned into something of a “Today” programme moment, where, having been asked the question, you have no time at all to answer. I am very sorry about that but I thank everybody for their contributions. It has been a hugely interesting debate and very diverse. The one thing that I would like to say in concluding—

The Deputy Speaker (Baroness Newlove) (Con): My Lords, the time allotted for this debate has now elapsed and I must put the Question to the House.

Motion agreed.

House adjourned at 5.26 pm.

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