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PARLIAMENTARY DEBATES  
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HOUSE OF LORDS  
OFFICIAL REPORT

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

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# House of Lords

Wednesday 5 June 2019

3 pm

Prayers—read by the Lord Bishop of Leeds.

## NHS: Bullying Question

3.06 pm

Asked by **Lord Clark of Windermere**

To ask Her Majesty's Government what are the latest figures for bullying in the National Health Service; and what are their plans to reduce the level of such bullying.

**The Parliamentary Under-Secretary of State, Department of Health and Social Care (Baroness Blackwood of North Oxford) (Con):** My Lords, the Government are committed to supporting NHS organisations in their responsibility to tackle bullying. Some 28.3% of staff responding to the 2018 NHS staff survey experienced bullying from patients, service users or the public, 3.2% from managers and 19.1% from colleagues. Through the NHS Social Partnership Forum's collective call to action and commitments in the NHS people plan, the Government are working with these arm's-length bodies, the royal colleges, the NHS national "freedom to speak up" guardian, NHS organisations and health unions to reduce levels of bullying for all staff, and they deserve our thanks for all their work.

**Lord Clark of Windermere (Lab):** I thank the Minister for her Answer. As she indicated, the NHS depends entirely on the commitment and dedication of its staff. It is really appalling that 28% of them experienced bullying and harassment in the last year alone, as she said. Just 12 months ago, her predecessor as Minister told me that over 70,000 members of staff had suffered physical violence in the service, and those figures are three years old. That is indefensible. We need to protect these employees. Will she make it clear that physical attacks will simply not be tolerated? Will she upgrade the service's register of violent and abusive patients, relatives and friends, and will she confirm that there will be zero tolerance against physical attacks on our NHS staff?

**Baroness Blackwood of North Oxford:** I thank the noble Lord for his Question and I share his outrage. We absolutely must have zero tolerance of violence against any NHS workers, wherever they work within the National Health Service. That is exactly why the Secretary of State made a commitment to the national NHS violence reduction strategy, which was launched on 31 October 2018. It will put in place arrangements to support trusts in their responsibilities to protect staff. The recommendations include improving governance, improving staff training and development, improving the work environment and better use of legislation, including the new Assaults on Emergency Workers (Offences) Act, which had its first conviction in November. That is a significant improvement, but we know that improving general morale and the workforce environment are important, which is why we published the people plan this week.

**Baroness Manzoor (Con):** My Lords, zero tolerance is really important in a workplace, but what are the Government doing to ensure that more senior managers and clinicians do not sexually harass and bully more junior staff?

**Baroness Blackwood of North Oxford:** My noble friend is right that we must ensure that bullying, wherever it comes from, is reported. It is just as unacceptable that bullying should come from managers and senior people as from those below. As I said in my Answer, the reported level of bullying from managers is 3.2%. This is one reason why we have introduced the "freedom to speak up" guardian, so that NHS workers are free to speak up and feel that they can do so in a safe space.

**Baroness Watkins of Tavistock (CB):** My Lords, the interim report by the noble Baroness, Lady Harding, on NHS staffing highlights persistent shortages of staff, particularly of registered nurses, in many parts of the NHS. To what extent does the Minister believe that bullying is associated with managers focusing on NHS targets without sufficient staff to deliver high-quality care?

**Baroness Blackwood of North Oxford:** The *Interim NHS People Plan* identified bullying and violence in the workplace as a key challenge that must be addressed, and identified some measures to address them. However, the noble Baroness is absolutely right that an underlying challenge is staffing, which is a major concern for the NHS workforce. The plan looks to address them in a serious and concerted way by recruiting more staff, retaining existing staff, and looking at innovative ways to entice former staff back into the NHS so that we reduce the pressure on the entire system. She will know that the plan includes commitments to recruit 40,000 more nurses over the next five years and to reduce the vacancy rate to 5% by 2028, down from the current 8%, and reiterates the commitment to recruit 5,000 more GPs on top of the 20,000 extra support staff to be recruited in the coming years.

**Baroness Brinton (LD):** My Lords, in addition to the figures cited by the Minister at the beginning of this Question, it has also been revealed that a number of hospital trusts still use non-disclosure agreements effectively to gag people when there has been a resolution to an incident. What guidance do the Government provide to NHS England to ensure that so-called gagging clauses are used only on sensitive matters, such as any compensation payment, and absolutely not to stop whistleblowing?

**Baroness Blackwood of North Oxford:** The noble Baroness is right that non-disclosure agreements cannot cover up bullying. All staff are free to speak up. Non-disclosure agreements should not be used for that purpose in any case. The Government have been very clear on this.

**Lord Mackenzie of Framwellgate (Non-Affl):** My Lords, I am sure noble Lords will recall my maiden speech 21 years ago, when I spoke about bullying in schools. One of the points that I made then, and I shall make again now, is that an answer to this problem is an independent hotline which people can ring to

[LORD MACKENZIE OF FRAMWELLGATE]  
report misconduct of all kinds, not just bullying, so that organisations do not seek retribution for those who report misconduct.

**Baroness Blackwood of North Oxford:** I am afraid I was not here 21 years ago to hear the noble Lord's maiden speech, but I shall look it up with utmost urgency upon leaving the Chamber and I thank him for his proposal. As the work moves from the interim people plan to the people plan, in which the work on bullying and the violence reduction strategy will be developed, I am sure that his proposal will be considered as a very sensible plan.

**Baroness Masham of Ilton (CB):** My Lords, how seriously does the CQC take bullying and what does it do about it?

**Baroness Blackwood of North Oxford:** The CQC takes this extremely seriously. One proposal in the people plan is for the CQC's scorecard to include a proper measure of a sustainable workforce, so that the new staff engagement metrics for the NHS oversight framework can be taken into account in the CQC's well-led assessments during inspections, and that includes questions about bullying.

**Lord Lansley (Con):** My Lords, I hope that my noble friend will agree that good leadership in the NHS is critical to removing a bullying culture. In that respect, might the Government support the NHS Leadership Academy to the extent that all aspiring chief executives in the NHS should themselves have gone through its Aspiring Chief Executive programme?

**Baroness Blackwood of North Oxford:** My noble friend, as ever, makes a very good point. Obviously there are a number of routes where leadership has been shown on this issue. In 2016 the Social Partnership Forum, which is chaired by Ministers but works across the system, gave a call to action, tasking employers and trade unions in all NHS organisations with working in partnership to create positive workplace cultures and to tackle bullying. In addition, recognising that no one organisation has the answer, royal colleges and others have joined together to create an alliance to tackle workplace bullying. They concluded that:

"Bullying behaviour is unacceptable. It is unprofessional and unnecessary. It affects the wellbeing of individuals and the teams within which they work".

My noble friend's proposal is another part of the picture. We need to come together across the system to tackle a completely unacceptable set of behaviours in the NHS—one that needs to be stamped out entirely.

## **Gaza** *Question*

3.16 pm

*Asked by Lord Hylton*

To ask Her Majesty's Government what plans they have to discuss with the governments of (1) Israel, and (2) Egypt, how to end the causes of recurrent violence in Gaza.

**Baroness Goldie (Con):** My Lords, we regularly discuss the situation in Gaza with the Israeli and Egyptian Governments. This includes the Minister of State for the Middle East raising our concerns with the Israeli authorities during his visit to Israel in May, as well as discussions with the Egyptian ambassador on 16 May. We are gravely concerned about the recent escalation of violence in Gaza. We welcome the Egyptian and United Nations brokered ceasefire and urge all parties to make progress towards a long-term agreement.

**Lord Hylton (CB):** My Lords, I thank the noble Baroness for her reply, but is it not intolerable that violence has continued for 12 years, providing an excuse for worldwide terrorism? The blockade also continues, although it has not prevented violence from both sides. Will Her Majesty's Government call for an end to the blockade and for the normalisation of all relationships? Would an independently facilitated analysis of the causes of strife be helpful in this?

**Baroness Goldie:** I reassure the noble Lord that we are deeply concerned about the recurring violence in Gaza and the surrounding region, and we regularly lobby the Israelis about the damage that their restrictions are doing to the lives and livelihoods of ordinary Palestinians. We have also raised concerns with the Egyptian authorities, but there is no excuse or justification for terrorism. We utterly condemn the violent acts of Hamas and other militant groups in Gaza. The firing of rockets towards civilian areas is unacceptable and must stop. I agree with the noble Lord that all parties should work together to agree a long-term sustainable plan to improve the situation with help from the international community, and we welcome efforts by those who are working to develop solutions that will ultimately lead to peace.

**Lord Anderson of Swansea (Lab):** My Lords, Israel is like one of those dangerous animals which, when attacked, defends itself. It would surely be more sensible to talk to Hamas and suggest that it stops rockets being launched into Israel and tunnels to Israel being built. The Israelis must know where the rockets are located and where the tunnels begin because of the quality of their intelligence operations. That would surely be the better practice.

**Baroness Goldie:** The noble Lord will be aware of the Government's long-standing position: Hamas's military wing has been proscribed in the UK since 2001 and the UK has a policy of no contact with Hamas, including the political as well as the military wing. Our position is that it must renounce violence, recognise Israel and accept previously signed agreements.

**Lord Wallace of Saltaire (LD):** My Lords, we are expecting a grand American plan for Israeli-Palestinian reconciliation from Mr Kushner and others. I gather that it has now been put off because of the failure of Netanyahu to form a new Government. Can the Minister assure us that the British have been fully briefed on what it will contain, that we have had a chance to provide our own input into what sounds like an immensely overoptimistic set of proposals for the Palestinians to accept, and that we are continuing to be engaged in discussions on this matter?

**Baroness Goldie:** We continue to encourage the US Administration to bring forward detailed proposals for a viable Israeli-Palestinian peace agreement that addresses the legitimate concerns of both parties. Insofar as further detail is concerned, since the state visit by President Trump is ongoing it would not be appropriate to comment on the nature of the conversations that are taking place. We discuss a wide range of topics with the US Administration, including the Middle East peace process, and we look forward to learning more about the US plans. Yesterday, the Foreign Secretary met with Mr Jared Kushner who, as your Lordships will be aware, is President Trump's son-in-law and has been placed in charge of the peace plan. They discussed a range of important topics, including the Middle East.

**Lord Leigh of Hurley (Con):** Noble Lords will be aware of the terrible state of the healthcare system in Gaza. This is partly because in Hamas-controlled Gaza much of the reconstruction material has been misused for tunnels and the like. One thing Her Majesty's Government could do—perhaps my noble friend the Minister could state whether they are minded so to do—is to keep an eye on the misappropriation of international aid and ensure that it is used for the purpose for which it is sent.

**Baroness Goldie:** I thank my noble friend for that question. As he will be aware, the UK is one of the principal donors to the Palestinian Authority in respect of Gaza; at least, we direct help through agencies there to try to alleviate the conditions. We would take very seriously any suggestion or evidence that this funding was being misdirected or misused. If any evidence were available, the United Kingdom Government would want to know about that.

**Lord Dubs (Lab):** Will the Minister confirm that the American cuts in funding to UNRWA were potentially very damaging and that the day was saved only by the British and other Governments making up the shortfall? Will the Minister confirm that, if the UNRWA money were to stop, affecting the valuable services that it provides in Gaza in both education and health, that would have a very damaging effect on the situation there and further prejudice the tensions in the region?

**Baroness Goldie:** All noble Lords will agree that it is important that everything possible is done to alleviate the humanitarian situation in Gaza. The noble Lord is correct that the role of UNRWA—the United Nations Relief and Works Agency—is extremely important. I cannot speak for the United States of America, but I can confirm that the UK is a long supporter of that agency and that we intend over the next few years to provide up to £80 million to support it. The noble Lord will be aware that this is in addition to the significant funds that we are already making available, including, as announced on 29 May by the Minister of State for the Middle East, new UK money of £1.6 million being given to the World Health Organization. This will address urgent gaps in trauma and emergency care in Gaza, including by establishing a new limb reconstruction unit which will help to provide lifesaving treatment to more than 380,000 people in Gaza.

## Probation: Voluntary Sector Question

3.23 pm

Asked by *The Lord Bishop of Newcastle*

To ask Her Majesty's Government what steps they are taking to ensure that the voluntary sector can contribute to an effective national probation service.

**The Advocate-General for Scotland (Lord Keen of Elie) (Con):** My Lords, voluntary organisations play an important role in helping offenders turn their lives around. We are determined to strengthen this role. In May, the Government set out our plans for future probation arrangements, including that the National Probation Service will directly commission specialist and voluntary sector organisations to deliver rehabilitation services. We are engaging closely with voluntary sector providers to ensure that our arrangements maximise their potential engagement.

**The Lord Bishop of Newcastle:** My Lords, I thank the Minister for his Answer and welcome the proposal in the *Strengthening Probation, Building Confidence* consultation, which promises a clearer role for the voluntary sector. My concern, however, is that the consultation proposes ongoing mini-competitions and a mixed market for services. Can the Minister tell us how the Government will ensure that smaller charities are helped to spend less time competing for contracts and more time serving the community?

**Lord Keen of Elie:** My Lords, commissioning of interventions for each area will be driven by a regional probation director, who will have a special responsibility to make use of locally available services and to adapt provision to match local need. In addition, we intend to remove some of the barriers that have been in place for smaller voluntary organisations, such as the requirement to provide parent company guarantees, which these voluntary organisations could not meet.

**Lord Dholakia (LD):** My Lords, the National Probation Service has more than a quarter of a million people under supervision at any given time. A lack of resources and Chris Grayling's reforms have not helped, as was clearly demonstrated by the National Audit Office. We welcomed the setting up of the National Probation Service, but we now have another problem about the extent of its workload. Is it not time to set up a thematic review to examine whether present resources are adequate to meet the implementation objectives of both the Prison Service and the National Probation Service? How do we involve the voluntary organisations in this critical exercise?

**Lord Keen of Elie:** My Lords, there is a determination to ensure that the voluntary sector is fully engaged in the future delivery of probation services. Indeed, although there are only 94 voluntary community or social enterprises delivering services in the current CRC supply chain, we know that there are many hundreds of such organisations that are either signposted by the present system or are available to be used, and we intend to go to them in so far as we can. As regards the future

[LORD KEEN OF ELIE]

organisation of those services, we are in the process of gathering data on all staff across the probation system to inform our workforce planning for this new model.

**Lord Beecham (Lab):** My Lords, this House debated the Government's Offender Rehabilitation Bill, which was an early example of Chris Grayling's ideological approach to policy and his limitless capacity to get things wrong—in this case, at the cost of over £400 million. Now, a year after a devastating report from the Justice Select Committee, in a belated decision the Government are abolishing the community rehabilitation companies, but why are they insisting, in effect, that the role of the National Probation Service is to contract out much of the service to private companies?

**Lord Keen of Elie:** The mixed-market model that we have engaged in has proved effective in a number of respects, and we continue to believe that that is the way in which to deliver services. Indeed, I notice that the noble Lord's suggestion might well have the unfortunate result of excluding much of the voluntary sector.

**Lord Farmer (Con):** My Lords, I ask my noble and learned friend how Her Majesty's Government will ensure that the importance of family and other supportive relationships is recognised as the golden thread that runs through all probation processes, when they transfer responsibility for management of all offenders to the National Probation Service.

**Lord Keen of Elie:** My Lords, the support of family and other social networks is a critical factor in helping to reduce reoffending, and we want to build on that where possible. Over the past couple of years, we have been implementing the recommendation of my noble friend's first report on male offenders, and we plan to act on his more recent report on female offenders.

**Lord Ramsbotham (CB):** My Lords, the consultation response that the Minister mentioned is long on thoughts and ideas but particularly short on any implementation plan. Can the Minister please tell the House when the director-general of the probation service will produce an implementation plan to give effect to all these ideas in the consultation response?

**Lord Keen of Elie:** My Lords, our plans regarding this matter are more developed in respect of Wales, where the model was originally considered. We are looking to transfer offender management functions from the community rehabilitation companies to the National Probation Service before the end of 2019 in Wales. Beyond that, it will go into 2020. That is the sort of timescale we will have in mind when it comes to the position of further probation reports.

**Lord Tomlinson (Lab):** My Lords, a few minutes ago, the Minister referred to the great successes of this mixed-market model. Can he help people such as me by giving a couple of examples of these great successes? Can he then explain why it has been so necessary to introduce such proposals for major reform?

**Lord Keen of Elie:** My Lords, I am not sure I used the word "great", but there have been successes so far as that model is concerned. Indeed, if we look at the statistics, we see that there has been an overall reduction, by a number of percentage points, in the reoffending rate for offenders managed by CRCs over the same offenders in 2011. In addition, we have seen that a proportion of CRCs have been consistently successful in reducing reoffending. However, we recognise that the model has not worked as we had hoped. In particular, it has not enabled us to engage with the voluntary sector in the way we had anticipated. We are desirous to achieve that objective.

## Housing: Pensions and Deposits

### Question

3.31 pm

Asked by **Lord Kennedy of Southwark**

To ask Her Majesty's Government what plans they have to allow individuals to use accrued pension savings to fund first time home deposits.

**The Parliamentary Under-Secretary of State, Department for Work and Pensions (Baroness Buscombe) (Con):** My Lords, the Government have no plans to change access to accrued pension savings. Automatic enrolment has transformed pension participation, with over 10 million people enrolled in workplace schemes. We will build on these reforms. We are also committed to helping people realise their aspiration to own their own home. Since 2010, over half a million people have been helped to purchase a home through government-backed schemes including Help to Buy.

**Lord Kennedy of Southwark (Lab Co-op):** When I read about this proposal, I thought it was ill-thought-out and damaging. Does the noble Baroness agree that people need to plan carefully for their retirement, to ensure they have an adequate income? If this idea ever came to fruition, it is likely that it would push up house prices and leave people worse off regarding their expected retirement income.

**Baroness Buscombe:** I entirely agree with the noble Lord that we must think carefully about how we encourage and support people to save for the long term and their retirement. That is why we are so pleased about the success of auto-enrolment. Our priority remains establishing long-term savings behaviour, so that people are enabled to save for greater security. Automatic enrolment has already reversed the decline in workplace pension savings seen in the decade prior to its introduction, and the number of first-time home buyers is at its highest level for 11 years.

**Baroness Thomas of Winchester (LD):** My Lords, could the Minister clarify whether the average 35 year-old has put £35,000 into a pension pot, or whether the figure is much lower, as statistics showed a few years ago? It is very good news that we are not going to risk young people completely emptying their pension pots in a desperate attempt to get on to the housing ladder. Of course, this is another reason why more affordable housing is desperately needed.

**Baroness Buscombe:** I entirely agree with the noble Baroness that one of our key concerns is to ensure that we encourage this culture of young people saving for their retirement. Of course, we do not want to do anything which would expedite them getting into financial difficulty by accessing their pension pots early. We are very excited by young people's level of uptake of the auto-enrolment pension scheme. Our ambition and aim is to do anything we can to support them and to build more affordable homes.

**Lord Tebbit (Con):** My Lords, would my noble friend not agree that the problem in the housing market is a shortage not of money, but of houses? If we do anything at all to put more money into the market before we have dealt with the problems of planning consents and got the houses built, we will only inflate the prices of houses even more.

**Baroness Buscombe:** I do agree. I am sorry that I am not the Housing Minister answering this Question, but it is important that we are committed to ensuring the housing market works for everyone. Of course, there is more to do. That is why we have announced an extra £17 billion in funding for Help to Buy since 2017 and reformed stamp duty so that 80% of first-time buyers will not pay tax. We are absolutely on a track that does not mean an increase in house prices. The important thing is that we focus on supporting first-time buyers. The number of first-time buyers is at an 11-year annual high.

**Baroness Sherlock (Lab):** My Lords, I agree with the noble Lord, Lord Tebbit.

**Noble Lords:** Oh!

**Baroness Sherlock:** There is a first time for everything. When I read about this, like my noble friend Lord Kennedy I initially wondered whether it was April Fools' Day. The Minister in charge of housing has a wheeze whereby young people should raid their pension pots to fund the deposit on a new house. I can immediately see three things wrong with this. First, frankly, most young people do not have enough money to put a deposit on a flat to rent—there is certainly not enough for fish and chips afterwards. Secondly, if they have enough money in their pension pots it should stay there, otherwise they will not have anything to retire on. Thirdly, as my new friend, the noble Lord, Lord Tebbit, points out, this will drive up the cost of housing. Given all that, and given that the DWP has had a multi million-pound advertising campaign to encourage younger people to save, what will happen to James Brokenshire?

**Baroness Buscombe:** My Lords, I am very grateful that the noble Baroness has formed a new friendship over this topical Question. In short, our focus in the Department for Work and Pensions is on ensuring we support young people in every way we can to save for the long-term, for their retirement and security. I have to say to noble Lords opposite that, if they feel as I do, perhaps it is not right that we should be giving so much oxygen to this idea in the House of Lords.

**Lord Lea of Crondall (Lab):** On the question of the role of land in house prices going up, is not one of the requirements of a sensible policy that the land value increase does not all stay in the pockets of the people who are sitting on this land, which could be given planning permission? That would help the Exchequer in other aspects of public finance.

**Baroness Buscombe:** My Lords, as I said, I am not the Housing Minister, but I will say this. Clearly, we must be very careful about how we develop our policies in this area. The reality is that our schemes are working. We are building a record number of homes. The latest evaluation has found that there is no evidence of a significant impact on house prices overall. The Help to Buy scheme is a hugely important part of that. There is no question of us supporting any scheme that would mean excess profits in the wrong hands.

### **Birmingham Commonwealth Games Bill [HL]** *First Reading*

3.38 pm

*A Bill to make provision about the Commonwealth Games that are to be held principally in Birmingham in 2022, and for connected purposes.*

*The Bill was introduced by Lord Ashton of Hyde, read a first time and ordered to be printed.*

### **Wild Animals in Circuses (No. 2) Bill** *First Reading*

3.39 pm

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

### **Kew Gardens (Leases) (No. 3) Bill [HL]** *Report*

3.39 pm

*Clause 1: Power to grant a lease in respect of land at Kew Gardens*

#### *Amendment 1*

*Moved by Baroness Jones of Whitchurch*

**1:** Clause 1, page 1, line 3, after "for" insert "residential use for"

**Baroness Jones of Whitchurch (Lab):** My Lords, Amendment 1 would restrict the use of extended leases to residential properties on the Kew estate. This amendment follows up on our earlier debates, which have tried to ascertain the longer-term implications of providing longer-term leases of up to 150 years across the Kew estate. As it stands, this short Bill could enable any lease, whether commercial, scientific or residential, to be extended in this way, potentially creating welcome

[BARONESS JONES OF WHITCHURCH]

additional income for Kew but also increasing the risks that the special and much-loved site will lose its focus.

Throughout the earlier discussions the Minister constantly quoted the immediate priority, which is to extend the leases on the seven residential properties overlooking Kew Green. As has been said, this is estimated to bring in additional income of some £15 million. I think we all said, in our different ways, that we did not have a problem with this; it seemed to make perfect sense. If this were what the Bill proposed, it would have sailed through its scrutiny stages without amendment but it is not what the Bill says. Instead, it gives powers to the Secretary of State to grant new leases and extend existing leases across the estate for up to 150 years.

At earlier stages of the Bill, a number of noble Lords sought to understand the full implications of this new power. For example, what was the total number of future properties that might be considered for longer leases once the seven residential properties have been refurbished? Were there plans to develop the car park adjoining the river? Were there other residential properties on different parts of the estate in need of refurbishment and which could also benefit from longer leases? Were there sites within the boundaries of Kew which were being considered for commercial development as well? In his response in Committee, the Minister was able to say only that Kew does not have any immediate plans beyond those for the seven residential properties. But he went on to add:

“Obviously, the Bill does not stop future plans for any other property on the non-core estate”.—[*Official Report*, 21/5/19; col. 1878.] However, he also acknowledged when asked that there was no clear distinction between core and non-core properties on the estate.

In the absence of further details about the longer-term plans of the trustees for other lease extensions, and taking on board the Minister’s repeated reassurances that the priority of the trustees is to create extra income from the initial seven residential properties, we are proposing this simple amendment to limit any extended leases to residential properties on the estate. It would seem to meet the objectives of the trustees while providing reassurance that there will not be long-term commercial lets on the estate, which might change the ethos and character of the site as a whole. I hope that noble Lords and the Minister will see the sense of this amendment and I beg to move.

3.45 pm

**Viscount Eccles (Con):** My Lords, the amendment is a little too restrictive on Kew, although I recall that at one time it had a plan, or at least a dream, to make available some of the properties for short-term accommodation for Kew’s partners when they needed to spend time in London and with Kew. However, to try to restrict the new power to residential property is going a bit too far.

**Lord Campbell-Savours (Lab):** My Lords, I intervened in Committee and put to the Minister a series of questions to which I hoped he might give me the answers in writing. They have not come, so perhaps he might ask officials to consider the questions I asked during that debate.

The most important protection for the land at Kew Gardens has been the fact that leases could be granted for a maximum of 30 years. The moment you transform that system and change the arrangement such that you can grant leases of up to 150 years, you transform the discussion about the future of that land and its potential use by developers. Even though covenants and restrictions will be in place, developers will look seriously at the long-term potential of the use of the land.

The question for me is: what has been Parliament’s intention during the passage of the Bill? As I have understood it, it is to ensure that no commercial development takes place on the site and that residential development should be restricted to a very small proportion of the land. I am not convinced by that. Parliament is being naive in thinking that the position will remain the same for the next 150 years.

So last night, lying in bed at midnight—as happened on the previous occasion—I went through the documentation that the Minister has provided for us in the past week. That is the framework document, from which I want to cite a number of paragraphs in support of my case.

Paragraph 27.1 refers to a “light touch” annual review of the framework document. It then talks about three-yearly full reviews. What will happen at the end of three years, six years, nine years, 12 years, 15 years, 18 years or 21 years? At what stage do Ministers envisage being under pressure, because the Secretary of State retains powers in these areas, to change the arrangements for future development possibilities on that site?

Paragraph 28.2 confirms the sharing arrangements for developers’ gains—so in the framework document there is recognition that there will be developers’ gains in the future. I am sure developers will study that closely. It may be that, because the intention of Parliament is not altogether clear, lawyers pore over our debates. I am not a lawyer, but I am told that they often refer to parliamentary debates to try to identify what the intention of Parliament was when a particular Bill went through.

Paragraph 7.4 refers to a requirement on Kew, “to maximise opportunities to increase income”.

Again, that is a pressure point on Kew to maximise income available from the site. In my view, it would be for the development of commercial and residential property.

Under paragraph 7.2, the Secretary of State can set conditions on grant-in-aid funding. In other words, they could pressure Kew to maximise alternative income streams when deciding on the grant-in-aid funding to be made available in any particular year.

Paragraph 21.1 emphasises the requirement for Kew to have regard to “efficiency, costs and resources”—again, that is a pressure.

In paragraphs 23.2 and 23.3, there is a requirement to avoid balances. Under the agreement as I understand it, Kew must not pursue a policy of having balances at the ends of years. In other words, it cannot save money in that way, which will in itself put pressure on resource availability—so much so that I believe that it will seek profits from the development of land on the site.



In paragraph 25.1, a process is set out for Defra's approval of breaches of the MPM rules, guidance and advice, and in paragraph 9.2 there is a requirement on the Secretary of State to sign off land sales. This, of course, works both ways: it can put a block on sales, but on the other hand it could serve as a notice to future generations that in 2019 it was envisaged or foreseen that land sales would inevitably take place. The question is: what land? I am not suggesting for one moment that it will be land in the body of the site, but I believe that that site has rich future potential and that developers will look at it and argue that, on the periphery of the estate, particularly near the river, there is potential for substantial development.

In Committee, I pointed to a footage price for flats on the present market. Flats down there would sell, even in today's market, at £1,500 per square foot. That property in the future, on the river at Kew, will fetch far more money than even today's prices, because it will become prime property. Ministers have completely underestimated the pressure that will be put on the trustees and the people who will be running Kew in the future to maximise their profits through property development on that site. I heard nothing during the debate in Committee that in any way interferes with my view. I believe that that is what will happen, and what we have in the Bill offers insufficient protection, despite all the conditions that the Minister referred to in his responses on that previous occasion.

**The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Gardiner of Kimble) (Con):** My Lords, I am most grateful to noble Lords for their contributions. I well understand that the noble Baroness's amendment seeks to restrict the application of the Bill solely to residential properties. It is true that the properties currently in the contemplation of Kew following the Bill are those seven residential properties that are either currently occupied on one-year assured shorthold tenancies or are vacant and require substantial renovation work. That is not to say that these are the only opportunities for Kew, but these are the definite properties that could immediately benefit from the Bill.

I know that noble Lords want only the best for Kew—I absolutely understand what the noble Lord, Lord Campbell-Savours, is saying. In both what I believe I put on record about the protections and, if I am permitted, in suggesting what might follow on the next amendment, Parliament is very clear about the requirement to protect Kew. However, I agree with my noble friend Lord Eccles that restricting leases to residential properties only would have a significant adverse impact on Kew's ability to benefit from the Bill. All noble Lords have said that we have great trust in the current trustees but we are worried about what might happen in the future. The current trustees and executive feel very strongly that to restrict the Bill will not be helpful to Kew in the future. I want, therefore, to reassure the noble Baroness, Lady Jones of Whitchurch, and other noble Lords by setting out in more detail further properties that Kew might, for example, plan for the future.

Other properties will be considered for the possibility of the grant of a longer lease when opportunities clearly present themselves; for instance, if buildings

become vacant and surplus to requirements. As noble Lords know, the care and protection of Kew's collections is one of the primary duties of Kew's board of trustees. The board must ensure that its collections are well managed, widely accessible and secure, and provide an optimum environment for scientific collaboration and discovery. This statutory duty will entail developing contemporary world-class facilities for the collections and science research at Kew Gardens, to provide a platform for collaborative, discovery-driven, botanical science to find solutions to the urgent challenges of climate change and biodiversity loss.

As these facilities are realised over the medium to long term, this could enable other buildings to be repurposed for a means appropriate to furthering Kew's mission and statutory objectives. These other buildings could include office accommodation which becomes surplus to requirements or is in need of significant renovation. In such cases, Kew should be able to explore options that deliver the best possible return for Kew, whether for commercial or residential letting, and which can be reinvested to further its statutory functions.

One such opportunity is 47 Kew Green. This is currently an office building for marketing and commercial staff, albeit not fit for purpose as modern office accommodation and requiring significant renovation work. Should Kew identify alternative space for staff to move out of this building into more suitable accommodation, it would be faced with a choice of renovating the building itself or finding a suitable and sensitive lessee to take the building over and improve its condition. I should add that Kew is very clear that, even with renovation, this building would not be suitable as research facilities to further Kew's purpose—investigation and research into the science of plants and fungi. Kew may not require the office building in the future, but, equally, preventing Kew leasing it out as a business premises would restrict it, even risking that building becoming obsolete. That is clearly one of the key aims that the Bill seeks to remedy.

Another possibility is Descanso House, a grade 2 listed Georgian building on the edge of the Kew Gardens site. It is not accessible to the public and is underutilised due to its condition. It is currently office accommodation for a small number of Kew staff, with a small office let to a Kew partner on a one-year lease. It is in urgent need of repairs. If alternative office accommodation could be found, this building could be considered for refurbishment, subject to listed building consent and in accordance with guidance in the Kew world heritage site plan.

To restrict the Bill to apply solely to the residential properties would not help Kew. On the basis that the protections are already in place, which I have set out at great length—and, if I may be permitted to say, I believe those protections will be considered in the next amendment—there is no reason to distinguish between residential and commercial leaseholds. From my experience of other large estates such as Kew, I would expect a mix of leasehold lets.

I will look into the points raised by the noble Lord, Lord Campbell-Savours. I recall committing to write on the specific issue of the car park. A copy of that

[LORD GARDINER OF KIMBLE]

letter should have been placed in the Library and sent to all noble Lords, but I will check. I know I signed the letter, so I am confident that—

**Baroness Kramer (LD):** To reassure the Minister, I certainly received a copy of it; I believe my noble friend did as well. I do not know whether other noble Lords did, but it was an extremely reassuring letter.

**Lord Gardiner of Kimble:** I will look at *Hansard* again, because if the noble Lord, Lord Campbell-Savours, thinks that I have not attended to other matters, I of course shall.

On the question of the framework document, Kew is protected but it is absolutely essential that there is rigour in that document, given the use of public money, over the arrangements between the sponsoring department and Kew. All noble Lords would be displeased if there were not confidence that there was rigour in the custodianship of public money. I do not resile from the fact that it is important that there is this arrangement between Defra and Kew. From my experience, the relationship between the two is proper, but with a mutual respect that we understand absolutely the functions that the trustees and the executive undertake on our behalf.

**Lord Campbell-Savours:** The Minister has to accept that what we are discussing today in the Bill is on the basis of the framework document that we can now see. We do not know what the framework document will say in 15 years' time, yet we are carrying the Bill today.

4 pm

**Lord Gardiner of Kimble:** My Lords, with the greatest of respect, none of us can command the certainty of what our successors may do. We are here, doing what we can. That is why I am pleased that in the next amendment we will be discussing our protections, which I have already outlined in considerable detail. I have taken great care and attention when discussing this with the trustees and the executive, all of whom have the ultimate bona fides with regard to the future of Kew.

I believe that Parliament, in its scrutiny, is undertaking what is right: the Bill gives Kew the capacity to reduce its maintenance liabilities and running costs, which must be desirable. It generates additional income from property that will help Kew to achieve its core objectives—which is desirable—maintain its status as a UNESCO world heritage site, and to improve the quality of its estate. I do not mean to be facetious, but resources are not infinite. I do not yet know any noble Lord who truly thinks that we have infinite resources, however wonderful Kew is. Therefore this approach must be right. I go to Kew often, and there are buildings there which we are not looking after as well as any of us would wish. This is what Kew wishes us to do, because this is the way that will help it to fulfil its statutory functions.

I say in particular to the noble Baroness, Lady Jones, that, having spoken to those at Kew, I have given examples of buildings that they believe could be better suited to a commercial let but with all the current

protections and what I believe we may well go on to. I therefore respectfully ask the noble Baroness to withdraw her amendment.

**Baroness Jones of Whitchurch:** My Lords, I very much welcome the steps the Minister has taken to listen to the concerns that have been raised around the Chamber in the earlier debates and again today. I know that he has done his best to answer all the issues that we have thrown at him over that period, and he has done so again today. It was helpful to hear the examples that he gave. I felt that in earlier debates there was a bit of a black hole, but he has populated that black hole with some credible examples. None of us wants buildings on the site left empty, obsolete or run down, and if there is a plan to deal with those in a constructive way, I think we would all want that to happen.

My noble friend Lord Campbell-Savours was right to say that the lawyers will pore over these debates in years to come, so it has been helpful to have that on the record as Kew's general intent. The Minister caveated his comments by pointing out that we will shortly have another debate. On the basis that there is more than one way to skin a cat—this was only one way and another is coming up—I beg leave to withdraw the amendment.

*Amendment 1 withdrawn.*

#### *Amendment 2*

*Moved by Lord Whitty*

**2:** Clause 1, page 1, line 5, leave out “such a lease” and insert “a lease granted in reliance on subsection (1)”

**Lord Whitty (Lab):** My Lords, while moving Amendment 2, which is in my name and that of my noble friend Lady Jones, I will also speak to Amendment 3—the two are clearly interdependent.

Your Lordships may recall that I expressed my attachment to Kew, its history, scientific excellence and amenity value, and to its aspect and its contribution, as my noble friend Lord Campbell-Savours, said, to that beautiful stretch of the Thames. None of us wishes to prejudice any of that. We want to preserve all those outcomes and benefits, but I recognise that to do so costs money. I was, like the Minister, responsible for Kew for a number of years, and understand that we need to increase the private money going into it. I recognise that the 31-year restriction on the lease was an inhibition on raising some of that money.

However, as my noble friends Lord Campbell-Savours and Lady Jones said, the Bill presented to us was very open-ended and was not restricted to the seven Kew Green properties but applied to any form of asset, building or land within the Kew estate. I therefore clearly felt, as did many other contributors to that debate, that we needed to place some restriction on how leases could be extended. I recognise the need for resources and to update some of the estate, but we need to be pretty firm in ensuring that such leases as are granted by virtue of this very short and apparently innocuous Bill are preserved and that Kew can continue

to provide both scientific excellence and amenity value to our people—indeed, to the planet as a whole, because Kew's contribution to botanical science is a very important element in biodiversity and climate change strategies.

As noble Lords will recall, in Committee I produced an amendment which I thought was pretty good and nailed the restrictions necessary. It referred to any such lease having to be,

“supportive of, or be compatible with the core botanical, scientific, environmental, educational and amenity activities of”,

Kew. I thought that was pretty clear, but since then, after consultation with lawyers—both mine and the department's—it has become clear that that is too generalised and must be anchored in existing legislation to which future generations can refer. I therefore welcome the discussion that the Minister had and allowed his officials and Kew officials to have with me so that we could come up with a form of words which I hope meets all the concerns expressed by my noble friend Lord Campbell-Savours and others. There is concern in the community around Kew, in the scientific community and in the minds of those who use Kew for recreational purposes that if we allow any open-ended leases, there will be developer interest, with the disastrous effect that we have seen on other stretches of the Thames applied to this very special piece of ground.

I therefore accept the advice of the lawyers to a large extent and have attempted in my amendments to place restrictions on future leases in terms, on the one hand, of the universal world heritage site provisions, which are pretty clear and, on the other, under the National Heritage Act, which includes the six principles under which the trustees of Kew are supposed to operate, to which the noble Viscount, Lord Eccles, referred at earlier stages. That pretty much covers the basis on which we must ensure that restrictions are placed on leases.

The amendments place the obligation on the Secretary of State, who would grant the leases, and therefore on the lessee, who would have to abide by the restrictions required by the Secretary of State. That may not be 100% watertight, but it is much more watertight than the original Bill and, I think, reflects many of the assurances which the Minister has tried to give us today and at earlier stages of the Bill. I think we can move forward with confidence and avoid the kind of intrusion on, and misuse of, the assets and land at Kew that some of us have feared. I beg to move.

**Lord Gardiner of Kimble:** My Lords, I think that it would be helpful to your Lordships if I confirmed that the Government support both amendments.

**Lord True (Con):** My Lords, I hesitate to intervene, particularly after what my noble friend on the Front Bench said. I assure the House that I will not inflict a Second Reading speech on noble Lords.

I proposed the Bill kindly taken up by the Government, which has become the Kew Gardens (Leases) (No. 3) Bill. Therefore, in some senses, I am a guilty party. I apologise for the fact that, because the Bill was taken up at short notice, I could not be present either at Second Reading or in Committee. Having read the proceedings carefully, I express my thanks to all those noble Lords who have demonstrated their love for

Kew and their concern for it and its importance as a world heritage site and a world scientific centre. The words used by Peers on all sides of the House have been wise and shown a duty of care. My noble friend on the Front Bench has been wise in negotiating and listening to come forward with a compromise, which I hope will satisfy the House.

I have been in the two buildings mentioned by my noble friend in the debate on the previous amendment. There is no doubt that they have a better longer-term purpose. Something was said about how people may construe the intentions of Parliament—indeed, those of all concerned. When I had the honour some years ago of being the leader of the local authority, I walked the grounds with Mr Deverell, the truly outstanding director of Kew. We discussed this problem and these propositions, which eventually led to the Bill. With the benefit of those private discussions over a number of years, I can assure the House that never at any stage was any intention expressed, either in private or in public, by those involved with Kew that would lead towards the kind of concerning developments rightly raised by some Members.

With that assurance, added to what I know of Kew's intentions and the benefits that this Bill could secure for Kew, I will not trespass any further on the House's patience. I apologise for not being present to support a Bill I proposed in my name and support wholeheartedly. I support the amendment moved by the noble Lord, Lord Whitty. Let us hope that the Bill goes forward and becomes law, to the benefit of this great institution.

**The Earl of Selborne (Con):** My Lords, it would clearly be helpful to add the amendment to the Bill. When I chaired the trustees, Ken Livingstone was the Mayor of London. We talked with him about resurrecting river access to Kew. Of course, it is no coincidence that palaces such as Kew, Hampton Court and Greenwich are where they are; it is because of their historical connections with the river. In a way, Kew has rather turned its back on the river. Perhaps this point is more appropriate to Amendment 1 than this one, but I can well imagine a situation in future where somebody might come up with an inspired proposal to lease a landing stage, perhaps somewhere where the car park is near the river, to facilitate a sustainable way of getting to Kew. That would almost certainly require Amendment 1 not to pass; indeed, it was not agreed. Secondly, that would require oversight to make sure that there was no adverse impact on the world heritage site or the universal values at Kew. We are right to give the trustees and Defra a degree of flexibility. It is very difficult to predict the bright ideas that might come up in future; it is not for us to try to second-guess them. However, the proposal of the noble Lord, Lord Whitty, would be a very effective backstop.

4.15 pm

**Baroness Kramer:** My Lords, I should like to take this opportunity to thank the Minister for the very detailed letter he sent me on the car park, which I think other Members have seen. I had some underlying concerns that it might be a site for development because it is right on the river, but he was able to reassure me that all the protections that apply to Kew apply also to

[BARONESS KRAMER]

the car park property; even though it is outside the rigid wall of the garden's limit, it is still an inherent part of the site.

Over the recess, I had the opportunity to speak to Richard Deverell, the director. I was delighted to find out that the car park is a major source of income for Kew, and that nothing would horrify him more than the thought that he might have to give it up. I feel, therefore, that this is an additional motive that sits alongside the protections.

As the Minister pointed out, there are so many levels of protection. The House has just heard from the noble Lord, Lord True, who was leader of Richmond Council, which, from a Conservative perspective, has always protected the character and significance of Kew and not allowed inappropriate development. I can say with confidence that that will be true of any Liberal Democrat administration, and, if I may be bold and daring, I suspect it would be true of any Labour or Green administration, or any other, that found itself elected in that part of the world. The site is valued so broadly that any proposed planning strategy that made Kew vulnerable in any way would put at risk the credibility of any council.

With all those protections in place—and acknowledging the extra effort from the Minister to reassure me on my one issue of concern, which I very much appreciate—it is with pleasure that we can work with these amendments, which strengthen the protection, and look forward to a stronger future.

**Lord Rooker (Lab):** My Lords, I add to the widespread support for the Bill. I served as Minister for Kew twice; once in the other place and once here. I have been a friend of Kew for over 30 years—indeed, I was there this morning. Over the years, in my different roles of member of the public and Minister, I have been in virtually every building on the site. I congratulate the Government, the Minister and those who brought forward the Bill to secure what will be, I think, an even better future for Kew.

**Baroness Bakewell of Hardington Mandeville (LD):** My Lords, as the Minister said, Kew does not have access to unlimited resources, and I welcome the recognition of this by the noble Lord, Lord Whitty. I fully support his amendment, and am pleased that the Government have decided to accept it. Like my noble friend Lady Kramer, I am pleased we have had the opportunity for a contribution from the noble Lord, Lord True, given that this was his Bill in the first place. The amendment before us strengthens the Bill and I am pleased to support it.

**Baroness Byford (Con):** My Lords, as somebody who is not based near Kew but who has really appreciated my visits there, I am delighted that this very small Bill will secure Kew's future. I understand the questions raised about Clause 1, but, having looked at the amendments in this second group, I think they will reinforce it and give us a good balance. We will be able to look at future developments that may happen, because otherwise it will not be sustainable in the long term. The most important thing is the valuable work that goes on

at Kew. With climate change and everything else that is coming along, Kew is a precious commodity that we need to keep in hand, without restricting it from developing in ways that we do not yet know will be possible in the future. I am delighted with this, and very supportive of it, as I have been throughout the passage of the Bill.

**Viscount Eccles:** My Lords, I very much support Amendments 2 and 3 from the noble Lord, Lord Whitty. Proposed new subsection (3)(b) refers to,

“the ability of the Board of Trustees ... to carry out its functions under section 24 of the ... Act”.

The first of these functions is to,

“carry out investigation and research into the science of plants and related subjects, and disseminate the results of the investigation and research”.

That is a very widely drawn function. It was drawn that way because, when the draftsman drew up the 1983 heritage Act, he discussed what Kew was doing and was looking for continuity. He was not looking for change.

The point I want to stress concerns the related subjects. In a period of climate change, biodiversity problems and environmental problems, the status of and the concentration on related subjects will change. Kew could help us, particularly with some of the points raised in the course of the Bill, if it gave its interpretation of its policy at a given moment in relation particularly to this first function, but indeed to all of them. The rest are a little easier to interpret. At the moment, in its annual report Kew states these functions, but says nowhere what it has concluded these functions mean it should be doing.

As has been said, completely correctly, Kew is constrained by its resources, particularly money, and by all sorts of history and agreements. It is in a context. If Kew wishes to explain how it sees that context, it should set it out. I hope that my noble friend, in his conversations under the Memorandum of Understanding or in any other way, will seek agreement from Kew that it will volunteer its own policy approach to the functions in Section 24.

**Lord Campbell-Savours:** My Lords, I obviously support any amendment that in any way restricts potential future development, but I want to clarify how, in my view, these amendments will be interpreted. If a developer surfaces who wants to build a block of flats on the edge of the Thames, who can go through the planning hurdles and all the covenants and somehow satisfy all these restrictions, he is left with this final restriction:

“The Secretary of State may grant a lease in reliance on subsection (1) only if satisfied that the lease would not have an adverse impact on”,

paragraphs (a) and (b). Would a block of flats on the Thames have an adverse impact on,

“the outstanding universal value of the Royal Botanic Gardens, Kew, as a World Heritage Site”?

I can see lawyers on behalf of applicants going to an inquiry and saying, “We don't think it will have any adverse effect. We are not in any way interfering with the heritage site. It might even enhance it, because it is a beautiful block of flats. It's some of the finest accommodation in the country and fits nicely into the Kew Gardens arrangement”.

Secondly, in relation to,

“would not have an adverse impact on ... the ability of the Board of Trustees of the Royal Botanic Gardens, Kew, to carry out its functions under section 24 of the National Heritage Act 1983”.

I cannot see how building a beautiful block of flats on the side of the Thames could in any way have an adverse impact on the,

“ability of the Board of Trustees to carry out its functions under section 24 of the National Heritage Act 1983”.

In the future, lawyers may drive a coach and horses through those words. I still support them, because at least someone is trying to introduce some restrictions.

I am sure the Minister was very pleased when he had to deal with this amendment because his officials may well see the dangers in the amendment that I see. We support it because it is a little shift in the territory—at least lawyers in the future will have to argue their case before some kind of inquiry. That is my case. I support the amendment but with huge reservations.

**Baroness Jones of Whitchurch:** My Lords, I was pleased to add my name to these amendments and to hear the support that the Minister has now pledged for them. I am thankful to my noble friend Lord Whitty for the well-crafted words he put forward, which seem to be receiving widespread support around the Chamber.

In contrast to my noble friend Lord Campbell-Savours, I argue that it provides a double lock on future extended leases because, first, they must not endanger Kew’s status as a UNESCO world heritage site. UNESCO does not grant world heritage site status lightly; it looks at integrity, beauty and function. Before a block of flats was even built in the middle of Kew, UNESCO would have made its views very clear. Having looked at the UNESCO judgment on Kew, I was very impressed by the detail it went into before it made its final recommendation about world heritage status. I am pretty confident that it would intervene before anything that would be considered a scar on the site was allowed to be developed.

Secondly, the National Heritage Act 1983 states that development must not endanger research, education, open scientific access and public enjoyment of the site. The public enjoy visiting Kew because it is such a beautiful site. I think the comments we have made in the Chamber would be echoed and magnified if we asked the public what they thought should happen on that site. I am sure they would have very strong views and would be quite conservative about any proposed developments. I have more confidence than my noble friend Lord Campbell-Savours that the provisions about UNESCO and the National Heritage Act provide the reassurance for which we are looking.

Of course, nothing is ever watertight—as we said in the previous debate, lawyers will pore over the wording, the intent of our discussions and so on—and we cannot legislate for the future or the difficult choices that the trustees and the Secretary of State may face. I accept that this is a compromise, but these amendments go as far as could reasonably be expected at this time. This is a good way forward and I am grateful that we have resolved this matter so effectively.

**Lord Gardiner of Kimble:** My Lords, I am most grateful for all noble Lords’ contributions. I am struck that, as is so likely in your Lordships’ House, I am looking at two former Ministers responsible for Kew and behind me on the Government Benches are two former chairmen of Kew. The noble Lord, Lord Campbell-Savours, asked: what is the worst that can happen? We have all worked tremendously hard to ensure that the amendments in the names of the noble Lord, Lord Whitty, and the noble Baroness, Lady Jones of Whitchurch, set out the right position. I am very pleased that the Government support them.

The conditions centre on Kew’s status as a UNESCO world heritage site and the functions of the board of trustees of Kew as set out in primary legislation. I was struck by what the noble Baroness, Lady Kramer, said about the political composition of the London Borough of Richmond upon Thames. Thinking back to the points made by the noble Lord, Lord Campbell-Savours, I cannot imagine any local authority of any political complexion, given all the safeguards I know there are in the borough, allowing this theoretical block of flats getting into any sort of starting stall. The point about the local authority was precisely put. I regret that my noble friend Lord True, who earlier pioneered this Bill, has only now had an opportunity to demonstrate his expertise and experience of Kew and the sorts of properties that the Bill is designed to help remedy in order to provide important resources for Kew.

I share noble Lords’ aim to protect Kew when granting these leases, and I believe that the amendment provides a robust assurance in response to many of the points raised in debate in your Lordships’ House. As I have stated before, the strong and multilayered protections already in place, together with planning permissions appropriately tailored in accordance with listed status, ensure that only development in keeping with Kew Gardens and its status as a UNESCO world heritage site will be permitted.

*4.30 pm*

The amendments would ensure that leases tailored for Kew under the Bill were compatible with its world heritage status and with the board of trustees’ functions under the National Heritage Act. It is worth noting that Kew’s annual report and accounts include the statutory functions of the board of trustees, setting out the strategic objectives in response to these functions. Kew’s corporate strategy is reviewed every three to five years and Kew is already in the process of refreshing its corporate strategy for 2021-22 onwards.

I say in particular to my noble friend Lord Eccles that I am very pleased that he will be visiting Kew. I think that he will have a very interesting meeting with the director and the scientists. The staff at Kew have already said to me that they will be very happy to discuss any suggestions that my noble friend, and indeed other noble Lords, might make about further publications and about the whole emphasis on science. Kew has a specific science strategy and that work is essential. I very much look forward to hearing that my noble friend’s visit reassures him that science is paramount at Kew. With the work that we have to undertake on climate change, which my noble friend Lady Byford

[LORD GARDINER OF KIMBLE] mentioned, and with the need for biodiversity, which the noble Lord, Lord Whitty, referred to, we absolutely need Kew.

With this amendment in place, alongside other scrutiny, I believe that Kew will be well protected. It will be clear on the face of the Bill that no lease may contravene Kew's objectives as the trustees go about seeking to achieve them under their functions as set out in the National Heritage Act. The Bill is about giving Kew options to access investment in underutilised properties on this large estate. The layers of protection offered by planning consent, the executive board, the trustees and the Secretary of State should be entirely adequate and, with these amendments, they can surely be placed beyond doubt.

The amendment reinforces the objectives and specifically references the functions of Kew's board of trustees under the National Heritage Act, preventing a lease allowing activity incompatible with the functions of the board of trustees. These functions are to carry out investigation and research into the science of plants; to provide advice, instruction and education in relation to the science of plants; to provide other services in relation to plants; to care for Kew's collection of plants; to keep the collections as national reference collections; and to allow members of the public to enter land occupied by Kew for the purpose of gaining knowledge and enjoyment. With those functions, I say again to my noble friend Lord Eccles that it is very clear, as I have seen for myself during my many visits, that science is of paramount importance at Kew. The amendments place a clear obligation on the Secretary of State to be satisfied before any lease is granted that permitted use under a lease could not have any impact on the functions of Kew's board of trustees or impinge upon its world heritage status.

I am most grateful to the noble Lord, Lord Whitty—partly for his patience, because obviously we have been in discussions—and to the noble Baronesses, Lady Jones of Whitchurch and Lady Bakewell of Hardington Mandeville, and to many other noble Lords for bringing their experience of Kew and Richmond and for their understanding of the importance of getting this right. Of course I respect the concerns of the noble Lord, Lord Campbell-Savours, but I believe that one would be prone to having an ulcer all the time if one always felt that we were going to get this wrong. We have all tried to get this as right as we can. We have entrenched protections, and I believe that what we have achieved is a very good example of the importance of your Lordships' House. We have found a resolution that satisfies most of what noble Lords have been concerned about—that is, to protect Kew—so I commend the amendment tabled by the noble Lord and the noble Baroness.

**Lord Whitty:** My Lords, I thank the Minister very much for that, and for the discussions that he and his officials have had in reaching this point. I welcome the widespread support throughout the House for these amendments. The House, the Minister and his successors, the trustees and their successors all recognise the anxiety that my noble friend Lord Campbell-Savours expressed, which these restrictions are intended to assuage;

this will need constant vigilance both by them and by Parliament. I welcome the fact that Parliament has paid a lot of attention to Kew in the last few weeks and, as a result of the intervention by the noble Viscount, Lord Eccles, may look again at the more detailed provisions on the scientific contribution of Kew.

On a lighter note, there were two unexpected contributions to this debate: the first was from the noble Baroness, Lady Kramer, who envisaged the possibility of Richmond upon Thames becoming a Labour council, for which I am grateful; the second was from the noble Earl, Lord Selborne, about the river entrance, which took me back 70 years to when I was a small boy. What they used to call Isleworth Gate was already closed but, as a nine or 10 year-old, you could still get in and avoid the one old penny that you would have had to pay at the turnstiles—that gave me a great afternoon out in those days. I hope it did not contribute to Kew's financial difficulties in later decades. Given the recognition both of Kew's need for resources and of the need to ensure there are restrictions on what can be done under this Bill, I hope we will see a positive and united future for the scientific and amenity value of Kew Gardens. I beg to move.

*Amendment 2 agreed.*

### *Amendment 3*

*Moved by Lord Whitty*

3: Clause 1, page 1, line 5, at end insert—

“(3) The Secretary of State may grant a lease in reliance on subsection (1) only if satisfied that the lease would not have an adverse impact on—

- (a) the outstanding universal value of the Royal Botanic Gardens, Kew, as a World Heritage Site, or
- (b) the ability of the Board of Trustees of the Royal Botanic Gardens, Kew, to carry out its functions under section 24 of the National Heritage Act 1983.

(4) In subsection (3), “World Heritage Site” means a property appearing on the World Heritage List kept under article 11(2) of the UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage adopted at Paris on 16 November 1972 (list of properties recognised by the World Heritage Committee as having outstanding universal value).”

*Amendment 3 agreed.*

## **European Parliament Elections: Non-UK EU Citizens**

*Statement*

4.37 pm

**Lord Young of Cookham (Con):** My Lords, with the leave of the House, I shall repeat an Answer to an Urgent Question asked in the other place yesterday by my honourable friend Kevin Foster, Minister for the Constitution. The Answer is as follows:

“The Government took all the legal steps necessary to prepare for the European parliamentary elections and put in place all the necessary legislative and funding elements to enable returning officers to make their preparations. We worked with returning officers, the Electoral Commission and other agencies, such as the Society of Local Authority Chief Executives and

Senior Managers and the Association of Electoral Administrators, to support the smooth running of the polls. The Government are greatly appreciative of electoral administrators' hard work inside and outside of election periods, which resulted in a higher turnout than for previous European parliamentary elections.

Electoral registration officers are under a statutory duty to ensure that people who are eligible to vote in elections have the opportunity to do so. For the recent European parliamentary elections—as for all previous such elections—this included making sure that EU citizens who are resident in the UK and registered to vote in local elections were made aware that they needed to complete a voter registration and declaration form, commonly referred to as a UC1 or EC6, so they could vote in the UK. The Electoral Commission supported EROs in this and encouraged them to take additional steps to raise awareness of this requirement locally, through social media channels and other means.

The UC1 form implements a requirement under EU law. EU Council Directive 93/109/EC requires all member states to send the details of any EU citizens' declarations to the state they are a citizen of, "sufficiently in advance of polling day", to ensure that an EU citizen does not vote twice in the same European parliamentary election. This is not a new requirement and has been in place for previous European parliamentary elections. Similar provision applies to UK citizens living in other EU member states. The UC1 form was accessible on the websites of the Electoral Commission, local authorities and Your Vote Matters.

On 5 April, the Electoral Commission published guidance for local returning officers and EROs on the upcoming European parliamentary elections. In it, the Electoral Commission reminded EROs to prepare and issue UC1 forms to EU citizens on the electoral register. On 3 May, the Electoral Commission published guidance advising EU citizens to avoid registering to vote using unofficial registration sites. The guidance further stated:

'Any EU citizen who wants to vote in the European Parliamentary election in the UK must also print, complete and return a declaration form stating that they will only vote in the UK'.

The guidance also included a link to the Your Vote Matters website, where the form could be downloaded".

4.40 pm

**Lord Kennedy of Southwark (Lab Co-op):** My Lords, I join the noble Lord in thanking returning officers and electoral staff for all that they do, and obviously I make my usual declaration as a vice-president of the Local Government Association. Does the noble Lord accept that this is a very unsatisfactory situation where people were denied their right to vote? Is it not another example of why we urgently need to review, amend and update all the laws on elections, electoral registration, campaigning and, of course, the functions and purpose of the Electoral Commission?

**Lord Young of Cookham:** I am grateful to the noble Lord for his response. I am sorry if anybody who had done the right thing was thereafter denied the right to vote. As he knows, the Electoral Commission will undertake its normal inquiry into this election, as with any other election, and of course we will reflect on the results.

On the noble Lord's general point, I repeat what I have said on an earlier occasion—probably in response to a question from him: we have an analogue system in a digital age. We are taking some steps: for example, imprints on digital communications; and the Electoral Commission is issuing statutory guidance to distinguish between candidate expenditure and national expenditure. But I repeat my acceptance of an offer that he made earlier to have an all-party meeting with the Minister for the Constitution to see whether we can find a consensual way forward to make sure that we have an electoral system fit for the digital age and fit for purpose.

**Lord Tyler (LD):** My Lords, given that the Prime Minister dithered for four weeks between the agreement to extend the Article 50 process, on 11 April, and the official go-ahead for the EP elections, on 7 May, should not the Government take the principal blame for the foreshortened period and the consequent problems that were left in the hands of the electoral authorities? This was also, of course, the main cause of the difficulties with postal votes for UK citizens overseas. Does the Minister accept that this major democratic deficit would not have occurred if the Government had accepted the recommendations made by the Electoral Commission four years ago as a result of difficulties with the previous European parliamentary elections?

As the Minister has just said, and as he has repeated on a number of occasions, we are now faced with a legislative hiatus. Would this not be a good opportunity not just, as the noble Lord, Lord Kennedy, said, to look at the overall problems with electoral law but particularly to look at the problems that occurred with the last referendum so that we can get it into a better shape before we have the next one this autumn?

**Lord Young of Cookham:** The noble Lord raises a number of points, and I shall try to deal with all of them. We were working with the Electoral Commission on streamlining the process following its recommendations after the last European elections, but given the result of the 2016 referendum it was not the Government's policy to take the reforms forward because our policy was to leave the European Union before the end of March 2019 and therefore before the next election was due.

On his accusations of dithering, I think I can rebut those. On 5 April, when it was clear that we would not be leaving the EU as planned, the Electoral Commission issued guidance that EROs should identify all EU citizens on the local government register and send them the UC1 declaration form accompanied by relevant information about what to do if they wanted to vote for a UK MEP. It also asked the EROs to take additional steps to raise the profile of this requirement. Perhaps I could write to the noble Lord about the arrangements for postal votes.

On the noble Lord's final point, were there to be another referendum later this year, as he implied, he will know that there would be primary legislation to bring that into effect, and he would have the opportunity to propose any amendments that he wished to the current regime.

**Lord Balfre (Con):** My Lords, the Minister may well want to write to me with the answers to some of these questions. I declare an interest as someone who has had a residence in Brussels for the last 40 years, although of course I have been able to vote in only the last couple of elections. I think there is a misunderstanding about what this directive says. The Minister stated that all member states are required to,

“send the details of any EU citizens’ declarations to the state they are a citizen of, ‘sufficiently in advance of polling day’”.

What is the definition of “sufficiently in advance”, and how many declarations did we send to other member states? Could he write saying how many declarations were received from each member state for the elections in 2014 and 2019? Could he also tell us what use they were put to? When I filled in my declaration in Belgium, I was not asked for an address in the United Kingdom, so how is this used to check that people have not voted twice? As a further complication, being a joint citizen of the Irish Republic and the United Kingdom, this year I registered myself in Brussels as a citizen of the Republic of Ireland. How, in any way, could the Republic of Ireland know this, since I am not eligible to vote in the Republic of Ireland as it has different regulations? I just ask—

**The Countess of Mar (CB):** My Lords, does the noble Lord appreciate that Urgent Questions should be treated in the same way as Oral Questions? Members should ask two questions, briefly.

**Lord Balfre:** I apologise. There are a number of points, but I will leave it at that.

**Lord Young of Cookham:** At the beginning of his questions, my noble friend generously suggested that I might write to him. It is an offer which I accept with alacrity.

**Lord Grocott (Lab):** My Lords, could the Minister resist any temptation to spend too much time, energy and public money on dealing with all these questions? Of course, the simple way to avoid all the difficulties that Members have identified with these elections would have been to observe the decision of the British people in 2016 to hold no more of them. Can he help the House, at least in one respect, to avoid any further waste of money? There was a reference in his Statement to the fact that full funding was provided to returning officers for all their needs; I am sure that is the case. Can he tell us precisely what the cost to the taxpayer has been for holding these totally unnecessary elections; or, if he does not have the information available now, can he put it in the Library?

**Lord Young of Cookham:** I agree with the noble Lord that, had the other place agreed the withdrawal agreement that was put before it, we could have avoided these elections. It so happens that I have in front of me some information relating to his question. The cost of the last European elections was £109 million, but that was shared with local elections. The amount of money set aside this time, when they did not coincide with local elections, was £159 million.

**Lord Cormack (Con):** My Lords, would it not help to calm those who were understandably upset by recent events if this House used much of the time we have at the moment, while we are treading water, to take the moral high ground and pass legislation giving full rights to EU nationals living in this country?

**Lord Young of Cookham:** I believe that was part of the agreement reached by the Prime Minister, which she put to the other place. I hope that however this matter is resolved, what my noble friend has suggested will indeed be the case.

**Lord Roberts of Llandudno (LD):** My Lords, was part of the problem the fact that some of the electoral advice given to the various returning officers was not accurate? Many local authorities used discounted mailing, rather than Royal Mail. This made a massive difference to the number of days that posted items took to reach those eligible to vote. Should that not be put right in instructions from the Home Office to the electoral returning officers?

**Lord Young of Cookham:** As I said in response to the noble Lord, Lord Kennedy, the Electoral Commission will carry out its normal review and inquiry into the European elections. It will certainly look at the issue raised by the noble Lord that some of the forms do not reach the people eligible. The Government will of course take notice of any recommendations made.

**Lord Wallace of Saltaire (LD):** My Lords, I am sure that the Minister will recall that, at the weekend, the Chancellor of the Exchequer suggested that the Conservative leadership election makes it now practically impossible for us to leave in good order on 31 October. Mr Michael Gove, as a candidate for that leadership, has also suggested that we might take rather longer. This begins to open up the prospect that we could indeed have the 2020 local elections before we get to the point of deciding whether we finally leave. We need to make absolutely sure that the position of EU citizens resident in Britain and their right to vote is clarified before we come to the next round of elections in which they are entitled to participate. Can he ensure that the Electoral Commission has that fully in mind?

**Lord Young of Cookham:** Is the noble Lord suggesting that there is a scenario where we have another round of European elections?

**Noble Lords:** Local elections.

**Lord Young of Cookham:** Yes, indeed, we will take account of any recommendations made by the Electoral Commission regarding what has recently happened and implement them before 2020.

## Illegal Seaborne Migration *Statement*

4.51 pm

**The Minister of State, Home Office (Baroness Williams of Trafford) (Con):** My Lords, with the leave of the House, I will now repeat in the form of a Statement the Answer given by my right honourable friend the Immigration Minister to an Urgent Question in the other place. The Statement is as follows:



“The English Channel is one of the busiest shipping lanes in the world. Every crossing attempted by migrants, often in unsuitable and very small boats, is life-threatening for those on board. These attempts not only represent a hazard to other vessels but threaten the safety of the Border Force, coastguard and lifeboat crews who come to their rescue. The Government are committed to preventing migrant crossings in small boats. My right honourable friend the Home Secretary declared a major incident in December last year, and our heightened response remains in place.

In January, the Home Secretary met his counterpart Monsieur Castaner and agreed a joint action plan to tackle seaborne arrivals. He will be speaking to him again later this week. The joint action plan builds on the extensive work we have undertaken in partnership with France over the past few years, including under the 2018 Sandhurst treaty. It demonstrates the strength and depth of our bilateral relationship and both countries’ enduring determination to secure our shared border and prevent illegal migration through France. Through measures such as increased surveillance and co-ordination of our joint response via the joint information centre, the plan enhances our robust border security.

The solution is not all about increased surveillance in the UK, but also about preventing vessels leaving France in the first place. We have recently delivered drones and other surveillance equipment to France, enabling its law enforcement officers to intercept and disrupt attempted crossings. We continue to look at a range of tactical options that work on both land and sea. Those attempting to cross should be aware that their efforts will be in vain. Since January, more than 30 people who arrived illegally in the UK in small boats have been returned to France and other member states under the Dublin regulation. We have many more in the pipeline for return.

Finally, we are tackling the organised crime gangs who are exploiting vulnerable and desperate individuals. Only yesterday, a French court sentenced two men to prison for helping migrants to make the treacherous journey across the channel. The summer months and settled weather will present us with further challenges, but we will continue to work co-operatively with France to secure our borders and seek to prevent further crossings taking place”.

**Lord Kennedy of Southwark (Lab Co-op):** My Lords, can the Minister set out for the House what further action the Government plan to take with our French partners to deal with the criminal gangs that are exploiting these vulnerable people? Of the people who arrive here and are picked up by the authorities having crossed the Channel, how many of them are making asylum applications and what is the timescale now for concluding those applications? Finally, what do the Government expect the commanding officers and crew of ships using this busy seaway to do on sighting small, unsuitable craft attempting to cross the Channel?

**Baroness Williams of Trafford:** I thank the noble Lord for his questions. Most of the people who cross the Channel do claim asylum and the vast majority of them are Iranian men. He asked what work the UK is doing with the French to address this problem further.

I referred to the joint action plan in the Statement. In more detail, it includes: over £6 million, or €7 million, of investment in new security equipment; increased CCTV coverage of beaches and ports; air surveillance, shared intelligence and a mutual commitment to conduct returns as quickly as possible under international and domestic laws. Just over half of that investment will come from the £44.5 million already allocated under the Sandhurst treaty agreement on UK-France co-operation, signed by the PM and President Macron in January 2018. In addition, there is £3.2 million of new funding for equipment and measures to tackle illegal migration by small boats, such as CCTV, night goggles and number plate recognition capability, which I think noble Lords would agree will help the UK and France to crack down on illegal activity.

To answer a further question asked by the noble Lord on determining asylum claims, we try to do that within six months. He asked a final question—

**Lord Kennedy of Southwark:** It was about what those on large vessels should do when they sight these boats.

**Baroness Williams of Trafford:** The prime objective of the boats which find people in the English Channel is to save lives at sea. That is always the prime objective.

**Lord Paddick (LD):** My Lords, the Statement describes how dangerous the Channel crossing is and says that 30 people have been returned to France and other member states under the Dublin regulation. How many asylum seekers have been allowed to remain in the UK and what is the UK doing to provide safe routes for these people, so that they do not have to risk their lives crossing the Channel? What do the Government intend to do if the UK is no longer a member of the EU, no longer party to the Dublin regulation and no longer able to return asylum seekers to other member states?

**Baroness Williams of Trafford:** I do not have the actual number for how many asylum claims have been successful but, as I said to the noble Lord, Lord Kennedy, most of the people who arrive claim asylum and we attempt to determine those claims within six months. On the Dublin regulation, clearly we will meet our obligations on asylum for people who claim it in this country. Returns under Dublin actually make up a relatively small proportion of the people who we go on to return, but we will continue to work with the French and other European partners on returns. In terms of safe routes, at the heart of this issue is that people should claim asylum in the first safe country where they arrive and not make dangerous journeys across the Channel, which is of course one of the most congested shipping lanes in the world. It is an incredibly dangerous place in which to be in a small boat.

**Lord Boateng (Lab):** My Lords, I happen to know this part of the Kent coast very well and, as a former Excise Minister, have some knowledge of two of the cutters recently deployed in the Channel. I have two questions for the Minister. First, the people of Folkestone and the surrounding towns and villages are well known for their hospitality to refugees. The churches have

[LORD BOATENG]

played a particularly important part in recent times. However, the reality in this part of Kent is that social services and the health service are extremely stretched. What additional assistance is being given to social services and the health service in order for them to cope with the impact of people rescued from the seas in this way? They have real needs, and the social services and the health service are stretched.

Secondly, the tasks we ask of the men and women who do such excellent service on the cutters are difficult and dangerous. What additional help is being given in relation to their welfare and training to enable them to do this?

**Baroness Williams of Trafford:** I recognise exactly the point made by the noble Lord about the welcome that refugees and asylum seekers have had and how welcoming organisations such as the Church have been. Starting with the most reverend Primate the Archbishop of Canterbury, the Church has been very generous in terms of community sponsorship schemes for new arrivals, for which we commend it. Throughout our debates, we have been clear—and I think that Parliament has recognised it—that in respect of unaccompanied asylum-seeking children, for example, we will ask local authorities to take only the number that they have the capacity to hold. In places such as those talked about the noble Lord—for instance, Folkestone—the national redistribution scheme has been in place for some time, because it cannot be incumbent on one single local authority to take all the new arrivals. Local authorities have been very generous to this end.

**Lord Swinfen (Con):** My Lords, what proportion of these people are Christians and what is being done to help them?

**Baroness Williams of Trafford:** As I said earlier, the vast majority of the individuals who have attempted to cross the Channel have declared themselves as Iranian. Some who have gone on to claim asylum have declared their conversion to Christianity. Therefore, I assume that they would have been Muslims converting to Christianity, but I cannot say for definite. However, a number of asylum claims have been based on conversion to Christianity.

**Viscount Waverley (CB):** My Lords, the Minister has identified Iranians crossing the Channel as refugees. The situation for Iranian citizens is dire, which is due in greater part to sanctions targeting Iran. Are sanctions imposed to achieve policy change? If so, is destituting Iranians helping to achieve this, rather than impacting the leadership?

**Baroness Williams of Trafford:** The noble Viscount is straying into territory that is perhaps not in my purview; however, I am not seeking to evade the question other than to say that I recognise the point he makes and it is clear that a lot of arrivals in the country at the moment are Iranians.

**Lord West of Spithead (Lab):** My Lords, I feel sympathy for the Minister because it is quite clear that our system is not working. We declared an emergency about this situation last year and it has not got any better;

if anything, it has actually got worse. Clearly, we have to work closely with the French, but we should have enough ships and assets ourselves to ensure that we can tighten up the Channel—I would call it the English Channel rather than the short straits; I do not recognise the term used in the Question. It is clear that we need to stop these boats when they set off from the French coast. We are allowed to operate our ships, drones and other things there. We can do that and stop them before they get across. Clearly, they think that they can get away with it, otherwise they would not keep coming. They keep coming and putting themselves at risk because the system is not working.

**Baroness Williams of Trafford:** The noble Lord will recollect what I said to his noble friend Lord Kennedy about the bilateral effort we are making with the French. He is absolutely right that people should be stopped before they get into a boat—in fact, stopped upstream even before that—because they are making such dangerous journeys. It is not only the ships; intelligence, surveillance and sharing of information through the CCIC is very helpful in this. He is right, it is a pressure and we have to deal with it.

## National Minimum Wage Naming Scheme *Statement*

5.05 pm

**The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Henley) (Con):** My Lords, with the leave of the House I shall now repeat, in the form of a Statement, the Answer given yesterday in another place to an Urgent Question which asked my honourable friend the Secretary of State for Business, Energy and Industrial Strategy to make a Statement on the suspension of the national minimum wage naming scheme. The Statement is as follows:

“Enforcement of the national minimum wage and the national living wage is a priority for the Government, and we take tough action against the minority of employers who underpay. Last year, employers were ordered to repay over 220,000 UK workers a record £24.4 million of arrears. We have more than doubled the budget for minimum wage compliance and enforcement since 2015, and it is now at a record high of £27.4 million.

As part of our enforcement approach, we name employers who have breached the legislation, which raises awareness of national minimum wage enforcement and deters others who may be tempted to break the law. To date, the Government have named almost 2,000 employers who have underpaid the national minimum wage. The Government are reviewing the naming scheme to ensure that it continues effectively to support minimum wage compliance. This is in response to a recommendation made by the director of labour market enforcement, Professor Sir David Metcalf, last year.

In December 2018 we accepted both of the director’s recommendations relating to the naming scheme, specifically to review the scheme’s effectiveness and to consider how to provide further information under the scheme in future. The Government have sought to

learn from other naming schemes and other regulatory approaches. We have also discussed the evidence with the director of labour market enforcement and have conducted further analysis to understand the impact that any changes to the scheme would have on the number of employers named.

Naming and shaming remains an important part of our enforcement toolkit, and the review will be concluded in the coming weeks. Any changes to the scheme will be communicated through the national minimum wage enforcement policy documents”.

That concludes the Statement.

5.07 pm

**Lord Stevenson of Balmacara (Lab):** My Lords, I am very grateful to the Minister for repeating the Statement. I am still a bit confused, however. He went on at length about the value the Government place on the scheme, but has it actually been suspended during this review, or not? Will he confirm, for the record, that the review the Government are carrying out is actually on the effectiveness of the naming and shaming scheme, not on the scheme itself, that the scheme has not been suspended or dropped, and that naming and shaming will continue until such time as a firm decision has been reached by the Government on the current review? Will he also confirm that, although it is true that the director of labour market enforcement called for an evaluation of the naming scheme, this was only one of 37 recommendations made in the excellent 2018 report? What is happening to the other very important recommendations, including the one to which he referred which called for greater use of, and more publicity for, prosecutions, undertakings and orders, so as to alter employers’ behaviour by raising their risk of being caught and increasing the penalties for breaching the law?

**Lord Henley:** My Lords, naming and shaming is just one of a number of different actions that can be taken, alongside self-correction by employers, the civil penalties that are available, and the criminal proceedings and resulting fines. As the noble Lord said, and as I made clear in the Statement, we will review the naming and shaming scheme and he will have to await further announcements on that. As my honourable friend Kelly Tolhurst made clear yesterday, she considers that it has been effective, but it is obviously quite a draconian measure to use against employers and we should be wary about the effect it might have on them. I think it is quite right that the Government should consider how to operate this in the future: that is what we are doing and I ask the noble Lord to be patient about this and about the other recommendations made by Sir David. In due course, announcements will be made.

**Lord Fox (LD):** I join the noble Lord, Lord Stevenson, in thanking the Minister for repeating the Statement. I am confused by his answer and the debate in *Hansard* yesterday in the other place, where no one seemed to be calling out naming and shaming as an issue. Can we get to the nub of what exact problem the Government are seeking to fix here in cherry picking this one recommendation and putting it up for review? Can the Minister tease out that information by telling us what terms of reference this review will have? Is it to make

naming and shaming more effective or to find a way of not having naming and shaming? Finally, the last sentence of the Statement says that this will be made public through the national minimum wage enforcement policy document. That is not good enough. Given the nature of this and the interest from both Houses, a Statement from the Minister on what this review comes up with will be important. Will he undertake to do that?

**Lord Henley:** My Lords, as I said to the noble Lord, Lord Stevenson, the noble Lord will have to be patient and wait for the full announcement. Sir David made his comments and my right honourable friend took them on board. We want to review the effectiveness of naming and shaming. My honourable friend made it clear yesterday that:

“It is absolutely right for me, as the Minister responsible, to evaluate the scheme and make sure that any naming and shaming scheme is meaningful, adds value, acts as a tool to aid employers to make sure that they are able to comply with the national minimum wage legislation”.—[*Official Report*, Commons, 4/6/19; col. 49.]

We want to make sure that that legislation is effective. This is just one tool among many. As I made clear, there is also self-correction by employers and the possibility of civil fines and, as has happened on occasion, prosecuting in the criminal courts. We want to see how effective this is and whether it should be looked at again. That is what my honourable friend and right honourable friend are proposing to do.

**Lord Arbuthnot of Edrom (Con):** My Lords, I am quite sure that it is my fault, but I remain confused. Has the naming and shaming scheme been suspended?

**Lord Henley:** I would not want to use the word “suspended”. My honourable friend made it clear in her Statement yesterday that naming and shaming was still there and available, but that while we were reviewing the scheme we were not using it. We want to look at the effectiveness of that scheme, as my honourable friend said, and decide how it can be made use of most effectively as one of the tools in ensuring that the minimum wage legislation, which goes back a long way—it was introduced by the party opposite, extended by the coalition Government and had further increases under the Conservative Government—all works well. It belongs to all of us.

**Baroness Donaghy (Lab):** My Lords, the Minister has asked us to be patient. Does he have any idea at all when this review might be completed so that we can have more definite information? Having spoken recently to Sir David Metcalf, who was an original member of the Low Pay Commission—we served together 20 years ago—at the 20th anniversary of the minimum wage, I know that he is quite clearly looking at the whole range of possibilities to make sure that implementation takes place. Without wanting to sound too critical, if you divide £24.4 million of arrears among 220,000 UK workers, if my maths is right that is about £110.90 each. I accept that that is a lot for people on minimum wage, but implementing the whole area is more important than worrying about this one issue. I hope that we get some very speedy action on the whole range of implementation of underpayment, rather than just the naming and shaming issue.

**Lord Henley:** My Lords, I cannot be any more precise on the timing of when the Government will make a further announcement. I have got things wrong in the past when I have said that things will be published “later in the spring”, and one had to be quite flexible about how one defined the spring. I will say only that we hope that there will be something later in the summer.

**Lord Scriven (LD):** My Lords, can the Minister name how many of the 239 companies that were named and shamed previously are not paying the national minimum wage?

**Lord Henley:** My Lords, again, I cannot answer that. However, one would hope that naming and shaming has been effective, and that we will know that in due course. As I made clear in some of my earlier responses, one also has to understand that naming and shaming is quite a draconian power and can have a major effect on any individual company. We therefore want to look at just how useful it is as part of the overall toolkit that is available to ensure that we can get all employers to meet the minimum wage.

**The Countess of Mar (CB):** My Lords, for many years, gangmasters have taken people out of cities to work in rural communities and have been known to pay them below the minimum wage. Are they regarded as employers or is the farmer who uses these men and women regarded as the employer, and if so, how many farmers have been named and shamed?

**Lord Henley:** My Lords, I am afraid that I cannot answer the noble Countess’s question, but if I have any further information, I will certainly write to her. However, as I made clear in the Statement, we have increased the resources available to HMRC, more or less doubling them. I am told that last year it completed some 3,000 investigations and issued £17 million in financial penalties to more than 1,000 non-compliant employers. Obviously, more can be done, and we will do as much as we can to make sure that where there is legislation—which has had all-party support—it is effective with regard to the employers concerned.

**Lord Stevenson of Balmacara:** My Lords, I am a patient person, and I was glad that my patience has resulted in getting a statement out of the Minister which he was perhaps reluctant to make. His noble friend asked whether this scheme had been suspended. He ducked that question and said that it had not been suspended, but I took from him—I would be grateful if he could confirm it—that the scheme in its present form is not being used until the results of the review have been published. We do not know when that will be but we hope it will be imminent. Given that most of the 37 recommendations in the very good report we have referred to assume that the scheme will continue, are the Government really considering suspending it completely?

**Lord Henley:** I will not prejudge that review. We have made it quite clear that we believe the scheme is effective, but, as I have made clear, on occasion it can be quite a draconian power. We want to look at how the scheme works, whether it is good, and whether it is, as I put it, a useful tool to have in the box to deal with this issue.

## Sure Start Statement

5.18 pm

**The Parliamentary Under-Secretary of State, Department for Education (Lord Agnew of Oulton) (Con):** My Lords, with the leave of the House, I will now repeat an Answer to an Urgent Question given earlier today in another place. The Statement is as follows:

“Thank you, Mr Speaker. The Government welcome the recent report by the Institute for Fiscal Studies on the health effects of Sure Start. It is crucial that in our pursuit of better outcomes for children and families and in making spending decisions, we are guided by high-quality evidence, and this report gives us more of that.

The report shows very clearly that children in disadvantaged areas benefit most from services; indeed, those in the richest 30% of neighbourhoods saw practically no impact at all. The policy framework we have in place reflects this evidence. In 2013, the Government introduced a new core purpose for children’s centres, focusing on families in the greatest need of support. While we have seen local authorities remodel services, there are now more children’s centres than at any time prior to 2008, and in fact since Tony Blair was Prime Minister. This is at a time when government is making record investment in childcare, with more than 700,000 of the most disadvantaged two year-olds having benefited from 15 hours’ free childcare since its introduction in 2013.

In addition, under the Government’s Healthy Child programme, children and families now receive five mandatory health visitor checks in the early years. The statutory framework also contains important protections so that outcomes for children and families, particularly the most disadvantaged, will not be adversely affected by the proposed changes to children’s centre provision.

The IFS also concludes that policymakers must, ‘consider which types of services and models of provision could most effectively help this group’.

The Government agree, and indeed we already have work under way to do exactly this. As part of our £8.5 million early years local government programme, we announced in April that the Early Intervention Foundation will look at children’s centres and other delivery models to find out what works well, so that local authorities have more evidence to help them continue to make the best decisions for their communities”.

My Lords, that concludes the Statement.

5.20 pm

**Lord Watson of Invergowrie (Lab):** My Lords, I thank the Minister for repeating the Statement. The IFS research demonstrates the critical role that Sure Start plays in children’s health as well as in their general development. The key findings are that the Sure Start programme begun by a Labour Government 20 years ago had a big, positive effect on children’s health, reducing the hospitalisation of children from disadvantaged areas by the time they finish primary school. Indeed, by age 11 Sure Start prevents about 5,500 hospitalisations each year, at an estimated saving to the NHS of £5 million.

Surprisingly, the Statement says that the Government welcome the report, although it is not clear why. Even more surprisingly, it asserts that there are now more children's centres than at any time prior to 2008. How can that be? Last year, the Government's own figures admitted that more than 500 Sure Start centres had closed. We know that it is many more than that. How does the Minister justify that astounding claim?

With the upcoming spending review, the IFS calls on the Government to review the impact of Sure Start and decide how the programme will be used. We thoroughly endorse that call, and I ask the Minister: will the Government commit to responding to the report's recommendations before the Summer Recess, because children in disadvantaged communities cannot wait while the Tory party continues its self-indulgent navel gazing?

**Lord Agnew of Oulton:** My Lords, in answer to the noble Lord's question about the exact number of children's centres, as at the current state, there are 2,353 main children's centres and a further 700 linked sites open to families and children. The important part of this issue is that all noble Lords share our concern to help improve the chances of disadvantaged children in our society. We have taken a slightly different approach through the introduction of the offers for two year-olds, three year-olds and four year-olds, where we are providing free childcare for hundreds of thousands of young children.

**Lord Storey (LD):** My Lords, I am grateful to the Minister for repeating the Statement and, like him, I welcome the report from the Institute for Fiscal Studies. The report indeed shows that children in disadvantaged areas benefit most from Sure Start centres. The IFS report is not about childcare, nor indeed about children's centres; it is about Sure Start centres and is entitled, *The Health Effects of Sure Start*.

The unique feature of Sure Start centres is that they offer a range of services to parents and children. The evidence is clear that Sure Start centres contribute significantly to improving the life chances of families in the most deprived communities—for example, as we have heard, by reducing the hospitalisation of young children by more than 5,000 a year and saving millions for the NHS. Sure Start centres also offer mental health support to young parents.

Why are the Government only now asking the Early Intervention Foundation to look at children's centres and other models of delivery? We already know that more than 1,000 centres have been closed and that Sure Start centres are of greatest support to children in deprived areas. So why are the Government kicking the evidence-collection can down the road? The Minister must know that cuts to local authority budgets have inevitably impacted disproportionately on the most disadvantaged young children.

I have two questions for the Minister. Will the Government take a holistic view of the needs of families, and will they ensure that the early years pupil premium, frozen since its introduction five years ago, is increased in line with the pupil premium?

**Lord Agnew of Oulton:** First, on funding generally, it is important to remind noble Lords of the opening comments in the IFS report executive summary, which state that we are now,

“one of the highest spenders on the under-5s in Europe”,

having lagged behind in the 1990s. So a great deal of progress has been made. We do take a holistic view, which is why we have put so much emphasis on supporting disadvantaged families with healthcare; that has enabled those families to get into work, which we know is one of the clearest ways to improve their prospects and quality of life.

The noble Lord asked about increasing the pupil premium. That will be a matter for the spending review, but we have done a lot in this area, including on the pupil premium that he mentioned. The introduction of the three year-old and four year-old offers gives 30 hours to families for the first time in history, and 340,000 children will benefit from that.

**Baroness Shephard of Northwold (Con):** My Lords, can my noble friend the Minister comment on the need for Sure Start centres to be accessible? Clearly, if they are well targeted, they bring great help to children born in a disadvantaged area. Many of those areas are rural, however, and while it is one thing to provide accessible Sure Start help in closely populated urban areas, it is quite another to do so in rural areas, as I know my noble friend understands.

**Lord Agnew of Oulton:** The noble Baroness is quite right that the provision of services in rural areas is much more difficult. Again, we have taken the education route, which is why we have looked at the provision of childcare for the two year-old offer, from which nearly 750,000 children in the country have benefited. The take-up of that offer has gone up nearly every year since its introduction; we are now at a level of 72%.

## Higher Education and Research Act 2017 (Further Implementation etc.) Regulations 2019

*Motion to Approve*

5.26 pm

*Moved by Viscount Younger of Leckie*

That the draft Regulations laid before the House on 29 April be approved.

*Relevant document: 49th Report from the Secondary Legislation Scrutiny Committee*

**Viscount Younger of Leckie (Con):** My Lords, it is a pleasure to speak to these regulations. I welcome the opportunity to debate them; they are the final major set related to the implementation of the higher education elements of the Higher Education and Research Act 2017, otherwise known as HERA.

The main purpose of the regulations is to make consequential amendments to existing legislation, a standard procedure after any primary legislation has passed. The majority of these amendments replace

[VISCOUNT YOUNGER OF LECKIE]  
 references to now defunct bodies or repealed legislation. They also reflect the diversification of higher education providers and the wide range of providers registered with and regulated by the OfS.

Further, they reflect the movement from a funding-based system with quasi-regulatory elements to a formal regulatory system based on registration. Some of the cross-references in other enactments relate to the quasi-regulation of higher education institutions by HEFCE, and others to the receipt of or eligibility for funding; the amendments reflect this nuance to preserve the original intention of such provisions.

Let me take a step back. As I mentioned during the debate on 20 May on the Higher Education (Monetary Penalties and Refusal to Renew an Access and Participation Plan) (England) Regulations 2019, we have made great progress since HERA came into law. Noble Lords may recall that HERA abolished the Higher Education Funding Council for England, otherwise known as HEFCE, and the director of the Office for Fair Access, more commonly known as OFFA. As mentioned earlier, a new regulator—the Office for Students, or the OfS—was created to oversee and monitor activities, including in relation to fair access and the participation of English HE providers registered with it.

The OfS currently regulates registered higher education providers under transitional arrangements; the new regulatory regime will be fully operational from August this year. In addition to retaining existing HEFCE and OFFA functions for the transitional period, the OfS has gradually begun to exercise its functions under HERA, and so has greater responsibility for a wide scope of higher education providers—not just universities, but some further education colleges, sixth-form colleges and alternative providers.

HERA gave the Office for Students the power to create a new single register of higher education providers. Registration with the OfS is the only route for providers to be eligible for teaching and research grant funding or to access student support funding, through charging fees for courses that attract student loans. Registration is now a requirement for an institution to obtain degree-awarding powers or the right to call itself a university. Since its formation on January 1 2018, and as of 23 May this year, the OfS has registered 357 higher education providers to exacting standards, including all English universities.

The HERA reforms to the system of regulating higher education were wide-ranging. This means that a number of changes to the statute book are needed to reflect the reforms introduced and to ensure the smooth running of existing legislation. That brings us to why we are here today.

5.30 pm

I turn now to some of the more detailed provisions under these regulations, the first of which is university title. The OfS assumed responsibility for determining applications for university title on 1 April this year. Before that date, applications were determined by the Privy Council. Transitional regulations were made in November last year to allow applications made before 31 March to be dealt with under the old system.

Further provision has been made in relation to university title in the regulations debated today to ensure that the consequential amendments they contain do not disturb applications already in process under the old regime.

These regulations also enable registered HE providers that are charities to become exempt from registration with and direct regulation by the Charity Commission. If a provider chooses to take advantage of this opportunity, the OfS will act as principal regulator for that provider, enabling it to avoid duplicative regulatory returns to both the Charity Commission and the OfS. Formerly, HEFCE was principal regulator for the higher education institutions it funded. A registered charity that does not wish to become exempt will not become exempt against its will; a provider must take action to obtain the exemption. This amendment is intended to create greater flexibility and choice for charitable bodies that are registered higher education providers.

I am sure your Lordships will be pleased to hear that these regulations make the Regulators' Code applicable to all the OfS's regulatory functions under Section 24 of the Legislative and Regulatory Reform Act 2006, fulfilling the commitment made during the passage of HERA.

I want briefly to address a matter on which we have offered reassurances to the Secondary Legislation Scrutiny Committee, and that I know is of interest to your Lordships: data or information sharing. These regulations assist the OfS in its access and participation activities by enabling schools, bodies that offer alternative provision and the Secretary of State to share relevant key information with the OfS and registered higher education providers. However, let me reassure your Lordships that these regulations do not open up additional access to data. The information being shared—which is necessary to support OfS functions—has not changed, only the bodies between which that data might be shared. That is to say that HEFCE, a body which no longer exists, is replaced by the OfS, and HEFCE-funded providers are replaced by OfS-registered providers.

Let me now turn to why these regulations are so important. In summary, they create the opportunity for more charitable bodies to become exempt from direct regulation by the Charity Commission; ensure that key enactments continue to work in the real world, thereby minimising the risk of disruption; and put OfS compliance with the Regulators' Code on a statutory footing.

I have already highlighted the wide-ranging nature of the legislation affected by these amendments. If they are not approved, it could have serious negative consequences on both students and the sector. Among other things, it could result in the loss of automatic pension eligibility for the teachers' pension scheme for new teachers at certain higher education institutions; confusion over whether certain providers have to charge VAT on student fees, and consequential budgetary implications; the Office for Students not being subject to the public sector equality duty, as laid out in the Equalities Act 2010; certain charities being unexpectedly faced with a change to their accounting rules, resulting in confusion and more paperwork, which again will

potentially affect students and their overall experience; and, finally, students being denied their full entitlement to state benefits because of outdated references to defunct legislation.

This Government firmly believe that the higher education regulatory system must be one that can protect effectively the interests of students in the short, medium and long term. That is why I hope your Lordships agree that these regulations are important to students and the sector, and I hope noble Lords will support them. I beg to move.

**Baroness Garden of Frognal (LD):** My Lords, this is a relatively uncontroversial SI that goes through the entire statute book, as the Minister set out, working out what consequential amendments need to be made as a result of the Higher Education Act 2017.

We have no issue with the changes that cross out references to HEFCE, individual research councils and definitions of a university in previous legislation, replacing them with references to the OfS, UKRI and the definitions set out in the 2017 Act, nor indeed with those that make the OfS an official government regulator, subject to the Regulators' Code or those that allow a university's charitable status to be regulated by the OfS rather than by the Charity Commission.

The Minister talked about data sharing and I have a question about that which has caused some concern. There has been confirmation from the HESA that it distributes information on sexual orientation and religion, on a named basis, to the OfS and the Department for Education. This information has been provided by students as part of equality monitoring, but surely such a named database of religion or sexual orientation should not sit anywhere at state level. What plans are there to change this and for how many individuals does the department hold that information?

Parts on the pension scheme have also raised concerns. They ensure that university staff, mainly from post-1992 universities, remain eligible for the teachers' pension scheme and the local government pension scheme. In September 2018, the Treasury recommended that employer contributions to the teachers' pension scheme needed to increase from 16.48% to 23.6% of an individual's salary to meet the expected future costs of paying pensions. The Government have recommended that the Treasury should pay an extra £830 million to schools to cover their additional pension contributions, and £80 million for colleges and other publicly funded training organisations.

Universities, however, will have to find the money themselves. That will affect universities created after 1992 that are not part of the main pension scheme for universities, which will have to find millions more from their squeezed budgets to pay staff. These are universities that rely more on tuition fees and have less of an ability to generate additional income.

The Liberal Democrat former Pensions Minister, Steve Webb, has said of this:

"For universities this is simply a spending cut, as the money for these contributions will have to be found from elsewhere. This does seem an arbitrary way of squeezing the independent schools sector and the university sector for what is essentially just an accounting change".

Why are the Government footing the bill for schools and colleges but not for universities? How will the Government ensure that these extra costs for universities will not have an adverse effect on students?

During the passage of the 2017 Act through Parliament, Peers across the House were united about the need for the Government better to recognise the importance of international students to our universities and wider economy, so do the Government acknowledge that anything that undermines the financial sustainability of our universities will inevitably lead to fewer overseas students coming to this country? Surely this pension decision will be a factor in challenging university finances.

The Augar review recommends that the Government adjust the teaching grant attached to each subject more accurately to reflect its perceived "value" to students and taxpayers. Given that a key aim of the Higher Education and Research Act is to improve student choice, do the Government consider that such a policy would undermine this principle? Following the Augar Statement yesterday, perhaps we may ask again: if fees are reduced to £7,500, how will this funding be replaced? How will the Government ensure that disadvantaged students at all universities can benefit from any replacement, instead of it being targeted at those in higher-tariff institutions?

I also want to ask the Minister about a couple of curiosities, which may prove that I have read these instruments. In Part 4, Regulation 43 amends paragraph 2 of Schedule 3 to the Charities Act 2011 to read:

"Any of the following if it is a relevant higher education provider",

and names the universities of Oxford, Cambridge, London, Durham, Newcastle and Manchester. It then amends paragraph 3 and names King's College, London and Queen Mary University of London. Is there any doubt that these are relevant higher education providers? What is the reason for separating King's and Queen Mary? What about other universities? Are they not relevant higher education providers? This may be my ignorance about the way the legislation is written, but it seems curious.

Paragraph 11A of Schedule 3 to the Charities Act 2011 is amended to read:

"A relevant higher education provider ... does not include (a) any college in the university of Oxford; (b) any college or hall in the university of Cambridge or Durham".

Why is Oxford separated from Cambridge and Durham? There are, or used to be, halls in Oxford as well as at Cambridge and Durham. Will the Minister explain why Oxford has been separated in that paragraph? I look forward to the Minister's reply.

**Baroness Wolf of Dulwich (CB):** My Lords, many noble Lords will remember that, as the Minister reminded us, the Higher Education and Research Act 2017 established a regulator with unparalleled and unprecedented powers. One of those powers is effectively to set its own budget by deciding what to charge universities for its services and activities. During the debates in this House, noble Lords pressed very hard for the Government to ensure that the Office for Students was subject to the Regulators' Code, so I am delighted to see that it is being placed on a statutory basis. How, though, is the Office for Students expected to demonstrate that it is behaving in accordance

[BARONESS WOLF OF DULWICH]

with the Regulators' Code? What sort of information does it provide to the Government on that basis and what sort of information does it provide to the public on that basis?

**Lord Bassam of Brighton (Lab):** My Lords, I guess the Minister is really asking the House to accept that these regulations are tidying-up amendments. I am grateful to him for his explanation of this statutory instrument, which, as he said, is a consequence of HERA 2017. The majority of the amendments are consequential and replace references to now-defunct bodies or repealed legislation. They include HEFCE and the Office for Fair Access, or OFFA.

Looking at registration under these regulations, under the Act a new regulator was created, the Office for Students, to oversee and monitor the activities, including in relation to fair access and participation, of English higher education providers that register with it. The OfS currently regulates registered HE providers under transitional arrangements which were due to end on 31 July. Will the Minister advise the House whether the new regulatory regime is on schedule to be fully operational by then? In addition to retaining existing HEFCE and OFFA functions for the transitional period, the OfS has gradually begun to exercise its functions under the Act, including the power to create a new single register of higher education providers. OfS registration affects the HE provision that institutions can provide, specifically access to public grant funding, the fee levels they can charge and the levels of support students can receive. Indeed, institutions that are not registered cannot access OfS or UK Research and Innovation public grant funding or charge above the basic fee amount.

I understand that since January 2018 the OfS has registered more than 300 higher education providers. However, last month, it was reported that 19 colleges offering higher education courses were still waiting to be registered with the OfS, only months from a new term when student recruitment should be well under way. Against this backdrop, Student Finance England was advising that to ensure funding is received in time for courses commencing in autumn 2019, new students should complete and submit their applications by 24 May. That seems a rather strange process and period of delay for making the system work. Does the Minister agree that the fact that it has taken almost a year to complete this process suggests that there might be room for some improvement?

5.45 pm

The Minister described the changes to the way in which university title would be settled and explained that the OfS assumed responsibility for this from 1 April. I thought I heard him confirm, essentially, that the consequential amendments in this instrument do not affect applications already in process under the old regime—that is, until 31 March. When he comes to reply, perhaps he could clarify that.

The regulations also make the Regulators' Code applicable to all the regulatory functions of the OfS. That is most welcome and something that Opposition

Front-Benchers and stakeholders across the House asked for during the passage of the Higher Education and Research Bill in 2017.

Turning to the Charities Act implications, we think that the regulations, quite properly, enable registered HE providers that are charities to become exempt from registration with, and direct regulation by, the Charity Commission. This should enable relevant HE providers to avoid duplicative regulatory returns to both the Charity Commission and the OfS. However, can the Minister advise how this policy will be communicated to HE providers that are charities to ensure that they are aware that they have a choice? That seems to be the implication of the regulations and we would like clarification on that important point.

We accept that it is imperative that, with a marketised higher education system, we have a robust higher education regulatory system to protect the interests of students, universities and the sector alike. However, following on from yesterday's Statement on the publication of the long-awaited Augar review, the Minister will undoubtedly be deep in thought about how effective our funding and regulatory structures are in supporting high-quality provision. Therefore, here are a few additional questions for him to ponder as part of that deep thought.

The Augar review recommends that the Government should adjust the teaching grant attached to each subject to more accurately reflect its perceived "value" to students and taxpayers. Given that a key aim of the Higher Education and Research Act is to improve student choice, do the Government consider that such a policy would undermine that principle?

The Higher Education and Research Act has specific protections for universities to determine the courses they offer, allowing them to respond dynamically to student demand and the skills needs of their local areas. Are the Government at all concerned about proposals in the Augar report that undermine this autonomy, important as it is, through a grant system which favours certain courses over others?

During the passage of the 2017 legislation, Peers across the House were united about the need for the Government to better recognise the importance of international students to our universities and wider economy, and other noble Lords have drawn attention to that. Do the Government acknowledge that anything which undermines the financial sustainability of our universities will inevitably lead to fewer overseas students coming to our country?

Large parts of the 2017 Act relate to access and participation plans, which are funded by universities through tuition fee income. If fees are reduced to £7,500, as the Augar report recommends, how will this funding be replaced? That question was also asked by the noble Baroness, Lady Garden. How will the Government ensure that disadvantaged students at all universities will be able to benefit from any replacement, instead of it being targeted at those in higher-tariff institutions?

The Augar panel recommends changing the measure of disadvantage used in student premiums, as by the Office for Students, to capture individual-level socioeconomic



disadvantage. Do the Government plan for the OfS to implement this change and, if so, when will it be implemented?

The quality of courses is of course imperative, not just for individual students but for the UK as a whole, which benefits from economic growth, a skilled workforce, productivity and social mobility. If the funding is not made up, in our view, universities will doubtless cut their widening participation budgets and drop subjects that are too expensive to teach. Given that a key aim of the Higher Education and Research Act is to improve student choice and access, do the Government consider that such a policy would undermine this principle? These questions are additional to those asked yesterday. The House deserves some reassurance on these points, and it will not do for the Government simply to say that all will become clear in the future and it is all subject to a spending review. We need some of those answers now, and so do the universities.

**Viscount Younger of Leckie:** I thank the noble Lord, Lord Bassam, and the noble Baroness, Lady Garden, for acknowledging that these regulations are mainly technical. I am pleased that these are the final regulations that have come out of the Higher Education and Research Act. It was a major Bill to go through this House and I thank all noble Lords who were involved.

A good number of questions arose. Before I get into answering them, I would like to pick up on what the noble Lord, Lord Bassam, said. He is quite right: the whole House acknowledges—and we would like to confirm—that what is important is to uphold and improve the quality of our first-class universities and, in so doing, to ensure we give the best choice to students, including international students, and that they get best value for money. That is behind everything we are doing in relation to the regulations and the Act itself, and—I will touch on this in a moment—is the basis for the Augar review, the independent review that has just reported. As I said yesterday and will say again in a moment, we will look very carefully at all 53 recommendations and will report back at the spending review, but not before. I say this not, perhaps, to reassure but to reiterate the point I made yesterday.

I will get straight into answering some of the questions raised: first, from the noble Baroness, Lady Garden, on pension schemes. The department ran a consultation, as she may know, on the impact of increased employer contributions on all TPS employers—including state schools, further and higher education providers and independent schools—for 2019-20. The department has decided to fund schools to the tune of £830 million and further education providers to the tune of £80 million—and not universities—in 2019-20, with costs beyond that year to be agreed at the spending review. This decision was based on the strongly positive response to our consultation proposal and the fact that schools and further education providers are most directly funded by government grants. I will read *Hansard* tomorrow to look again at the detailed remarks that the noble Baroness made. I will check her questions against my answer and, if I am not satisfied, I will write; I am sure that she will press me if she is not satisfied.

The point the noble Baroness raised on data is important and, again, she had some detailed questions. Although I would like to write to give her some information in answer to her question about our plans for changes, I emphasise that these regulations do not extend access to data; they simply update the bodies between which data may be shared, replacing HEFCE with the OfS and HEFCE-funded higher education providers with OfS-registered higher education providers.

I welcome the noble Baroness, Lady Wolf, to her place. I was sorry that she was not present yesterday. I thank her, particularly, for her role in the production of the Augar review. I am sure she has read *Hansard* in detail for yesterday's exchanges. She asked how the OfS will demonstrate that it complies with the Regulators' Code. The OfS, as she may know, is required to report annually on the performance of its functions. This report is sent to the Secretary of State and laid before Parliament.

The noble Baroness, Lady Garden, asked why the Charities Act amendments in Part 4 were drafted in this way; she had a number of detailed, interesting questions. I am sure that I will not be able to answer them all, particularly the points raised about the differences between Oxford, Cambridge or Durham. Again, I will need to read *Hansard*. What I can tell her is that the Charities Act amendments reflect the existing drafting in the Charities Act, which lists certain specific institutions. The term "relevant higher education provider" is used to ensure that a provider is registered with the OfS. If the provider is removed from the OfS register, it will no longer be a relevant higher education provider. But I want to go further and say that deregistration by the OfS can happen only under very narrow circumstances, including: serious breach of registration conditions by a provider; where the provider requests that it is deregistered; or where a provider stops providing higher education in England.

I shall say a bit more about the Augar review, which was mentioned by the noble Lord, Lord Bassam, and touched on by the noble Baroness, Lady Garden. As I said yesterday, I am not able to give an opinion on what, if any, recommendations we will take forward. I said yesterday, and repeat again, that we need to look at the 53 recommendations "in the round"—that was the expression that I used yesterday—since many of them are interactive. For example, the proposal to reduce tuition fees from £9,250 to £7,500 needs to be taken into account along with the proposal to extend the payback period from 30 years to 40 years and the further proposals for changes to the in-study interest rates and beyond. These are matters that I am simply not prepared to comment on or make a judgment on.

**Lord Bassam of Brighton:** Does the Minister accept—I think this is overwhelmingly the view of those who have looked at the Augar review—that the proposed financial changes are regressive rather than progressive? That is an important point, particularly in respect of the 40-year payback period it recommends.

**Viscount Younger of Leckie:** Again, I am not prepared to say whether they are progressive or regressive; we are looking at the 53 recommendations, and we will decide by the spending review what we want to do.

[VISCOUNT YOUNGER OF LECKIE]

I shall go a little further. The noble Lord mentioned the teaching grant. As I said yesterday, the question of—to use his words—making up the teaching grant is again something that we need to look at in the round. It is all interrelated. If the proposed reduction to £7,500 leaves a make-up to be made, we will need to look at that with a great deal of care. As I said at the beginning, it is important to ensure the financial sustainability of our very best universities, making sure that the quality is there, the choice for students is there and that it is affordable—I think that that is incredibly important.

I think that I have covered all the questions. As I said earlier, I shall read *Hansard* in particular depth on this occasion because of the detail of the questions, and I shall certainly write a letter if I have not covered everything.

*Motion agreed.*

## Renewable Energy

### *Question for Short Debate*

5.57 pm

*Asked by Lord Cameron of Dillington*

To ask Her Majesty's Government what plans they have to (1) harness the potential of tidal ranges to generate renewable energy, and (2) encourage the private sector to invest in this area.

**Lord Cameron of Dillington (CB):** My Lords, I have put down this Question for debate because I believe that, in our uncertain world, it is imperative that the UK plays to its strengths, and in energy one of its real strengths is the range of its tides. Whereas at somewhere such as Gibraltar the tidal range is only about one metre, it can be eight metres in the Solway Firth or higher than 15 metres in the Bristol Channel. We also have tidal races around our shores and between our islands which flow at great speeds and with considerable power.

Of course, tidal power output is classed as intermittent, but it is a guaranteed and predictable supply. We know now how much power we can produce from a given site between the hours of, say, 6 am and 8 pm on today's date in 2121. I say 2121 because, if we build a tidal lagoon now, we know that it will still be producing electricity, almost for free, in over 100 years' time. We will be like the Norwegians, who get their current electricity for almost nothing because they harnessed their natural hydropower advantage many years ago.

Tidal power is our natural advantage, and we must harness it as soon as we can. Our territorial waters include around half of the European tidal resource. We have tidal races in the Solway Firth and the Severn Bore, with speeds of six and 15 miles per hour respectively. We have 11 out of 60 of the world's top tidal bores and we must harness them. We also have tidal races between our islands, such as in the Pentland Firth or the infamous Gulf of Corryvreckan. Research in Shetland and Orkney has shown that anchored floating barges with large turbines underneath are an effective way of tapping into these races, albeit with each barge providing only up to five megawatts. But together, and from the

north to the south of the country, they could create an attractive and constant supply, as could the Deep Green slow-current kite system being trialled by Minesto off north Wales.

There are also possibilities for barrages, especially where they provide other services such as transport links that enhance their cost-benefit analysis. Morecambe Bay is a very good example here, giving access and a much-needed economic boost from the M6 to Barrow-in-Furness in west Cumbria.

To me, the most compelling solution for harnessing our tidal power are large offshore tidal lagoons. Any site with a depth of between five and 10 metres and a tidal range in excess of five metres can produce guaranteed power. They are better than a barrage across a bay, because you can have turbines all round and not just on one side. This means they are almost half the price per output of power. They are different from the Swansea Bay barrage and other shore-to-shore barrages. They can be any shape—oblong, square, round or rectangular—and curve in any direction to follow exactly the required underwater contours for producing maximum return on investment. For instance, a 16 square kilometre lagoon planned for the Solway Firth would produce 350 megawatts.

There are about 20 ideal sites around the UK coastline. I invite your Lordships to imagine a wall of water in the Severn estuary that is about the height of this Chamber and several miles long. That is the sort of power that the Severn can produce four times a day. One lagoon in Bridgwater Bay alone, right next door to Hinkley Point, could produce 1,900 megawatts.

The advantages of these lagoons are many. First, unlike coal-fired, gas or nuclear power stations, they do not have to be shut down for repairs. If a turbine needs servicing, it is only one of 20 or 30. It is lifted out for maintenance and the effect on output is minimal as the rest just keep turning. Secondly, they do not upset shipping traffic in any serious way, because they sit at the side of any shipping channel in waters normally too shallow for large ships. Thirdly, their environmental effect makes only peripheral difference to the course of the tide, migratory fish, wading birds and so on. They have the support of the RSPB, Friends of the Earth, the WWF and other environmental NGOs.

There are numerous sites for these lagoons in the UK, from north to south. With a seven-hour tidal difference between Bristol and Solway, and with the tides being used on both the flood and the ebb, that gives an almost consistent baseload power for England, even before we tap into the Scottish tidal ranges. Tidal lagoons could provide three times the capacity of Hinkley Point.

However, the UK supply chain desperately needs government engagement now. What the industry is seeking from the Government is enough support to allow for an initial project currently planned for the Solway Firth at a contract for difference strike price of £82 per megawatt hour for 25 years. The latest wind auction costs were at £57 per megawatt hour, to which one has to add £20 to deliver predictable power, so £77 for wind compared to £82 for a first-of-its-kind tidal power project compares very favourably, and is

certainly much better than nuclear. Just remember the huge costs of the early wind farm contracts before its industry costs began to fall. The same rapid drop in costs would almost certainly happen to tidal power as the skills develop. Think, too, of the export potential of those skills; Canada, Alaska, Argentina, Chile and France all have suitable estuaries.

It is thought that, after this pilot project, subsequent tidal lagoons could have a strike price of £60 per megawatt hour, or even less, which brings the technology well into line with offshore wind schemes, and clearly well below the latest nuclear strike price. However—and this is important—even with the pilot project in Solway, if you take the mid-case forecast for wholesale electricity prices, it is likely that for the final decade of the support contract, the Treasury would actually make money from the Solway project. Then, after the first 25 years, for the following 100 years, the cost of the electricity would be minimal. Think of the benefit of that to UK industry, particularly in comparison with the relative short-termism of the more expensive nuclear options.

Above all, what we need from today's debate is a clear signal from the Government that they would in principle support a value-for-money tidal lagoon proposition, or at least negotiate seriously with the main players. This would allow the businesses concerned to move forward and begin to create this exciting new industry here in the UK. As I said, we have the tidal strength in the UK—more than any other country in the world—and we must play to our strengths and harness our tidal power now.

6.06 pm

**Lord Giddens (Lab):** My Lords, the noble Lord, Lord Giddens, listed on the speakers' list was unable to get here this evening, so I, the noble Lord, Lord Giddens, am here in his stead. I say that only for the integrity of *Hansard*. I begin by congratulating the noble Lord, Lord Cameron, on securing this debate and introducing it so accurately and passionately. I certainly endorse that passion and his combative position.

A huge struggle is going on around climate change, and ecological issues more generally, across the world today. The battle lines look utterly different from the situation in which the Paris Agreement was forged only a short while ago. On the one hand, the leaders of some of the world's largest states, such as the US and Brazil, treat the goal of reducing carbon emissions with some scorn and are busy translating their rhetoric into action.

Far out on the other side, we find the climate emergency movement, which, as every noble Lord knows, has rapidly achieved global scope. The IPCC's recent special report has lent impetus to its cause. It suggests that global warming beyond 1.5 degrees centigrade would pose serious threats to the continuity of human life on this earth. I am on the climate emergency side of this debate. We are nowhere near achieving the goals that would maintain the level proposed by the IPCC. Anyone who wants to see what lies on the other side should look at David Wallace-Wells's book *The Uninhabitable Earth*. There are dystopias waiting.

All this might seem miles away from our local disputes over the Hendry report on the Swansea tidal lagoon project, but it is not. This country rightly aspires to be a leader in curbing carbon emissions and has a good claim to being such. Successive Administrations, to their credit, have kept and further developed the framework set out by the Blair and Brown Governments. However, acceptance of the implications of the IPCC's findings changes the relationship between investment, both public and private, and risk. There is a new urgency to the transfer to renewable energy. I would welcome the Minister's thoughts on this huge change in the renewable energy landscape. I hope he will agree that current initiatives must be combined with longer-term thinking about what a fully sustainable economy would look like.

The grounds given for rejecting the Hendry report proved contentious. Some have questioned the figures given by the Minister in the other place at the time, especially the comparisons with nuclear energy. Perhaps the Minister might want to comment on that. However, it is good to see that the demise of the Hendry proposals has prompted further initiatives. The plans for Dragon Energy Island in Swansea Bay have a different guise and essentially take the form of a public/private partnership. Thousands of homes would be built on floating platforms, receiving their energy from tidal power. Contracts would be set up by the local council and other public bodies to purchase electricity over specified periods. The project is designed to be long-term, and clients will be encouraged to take out long-term contracts based on buying electricity at a set price.

It is claimed that there is huge support among the wider public for this scheme and it will be good to hear the Minister's views on how the project might be taken forward. Perhaps, if he is willing, my noble friend Lord Grantchester could comment on reports that Mr Corbyn has given a commitment to push ahead with the tidal lagoon project should Labour come to power. Has any thought been given to the sources of such funding, or is it just a vague promise?

The Government often talk about the UK being a leader in this and that. Is tidal energy not exactly one area where the rhetoric can be translated into reality, with the appropriate mix of government seedbed investment and private sector involvement? We have to look internationally. Does the Minister think there are lessons to be learned from the Sihwa Lake tidal power station in South Korea, perhaps currently the world's leader? The electricity generated by that plant every year is the equivalent of 862,000 barrels of oil—a saving of over 315,000 tonnes of CO<sub>2</sub>, equivalent to the annual emissions of 100,000 cars.

China is planning huge investment in tidal energy schemes. How far are the Government actively tracking these? In harnessing tidal power, China is likely to move as fast as it has in other areas of renewable energy. After all, China became by far the world's largest producer of solar panels and wind turbines in less than two decades from start to finish. China's tidal energy project on Xiushan Island, installed in 2016 with amazing rapidity, as always happens in China, has claimed a world record, having generated over 800 megawatt hours of power since that time, all supplied continuously

[LORD GIDDENS]  
to the grid. We are relying, very controversially, on Chinese as well as French expertise in building Hinkley Point. Do we want the same to happen with tidal power? I would welcome the Minister's comments on that point.

6.13 pm

**Baroness Maddock (LD):** My Lords, I too congratulate the noble Lord, Lord Cameron of Dillington, on securing this debate. I feel somewhat intimidated by the two previous speakers, who have a lot of expertise in the area we are discussing, but this is a very important and timely debate about technology that we hope will reduce the UK's carbon footprint and therefore contribute towards the sustainability of our globe.

As has already been said, around half of Europe's potential wave and tidal resource is thought to be in the United Kingdom. It is estimated that this resource could generate up to 20% of the UK's current electricity demands. Yet no large-scale tidal lagoons or wave technology projects have been developed here in the UK, and over the years, UK Governments have been very timid in their support of this source of sustainable energy. They have also missed a great opportunity to support cutting-edge tidal energy projects. This is despite the fact that the UK is in a very advantageous position to establish a natural lead market for marine energy technologies, both wave and tidal. There are favourable natural conditions here in the UK. Globally, the UK is leading on planned power projects and there are a number of major industrial players in this sector. In addition, the United Kingdom has several world-class testing facilities and a variety of public funding mechanisms—the noble Lord, Lord Cameron, was talking about how we could use those to promote lagoons.

Despite this, the Government have continued to reject various projects. The noble Lord, Lord Giddens, has already talked about the scheme in Swansea: as early as 2013, a government department rejected that scheme as “not cost effective”. Again, as the noble Lord pointed out, the Government did not listen to the Charles Hendry report of 2017 either, despite the fact that the report said that this was,

“an ... opportunity where the UK can ... aspire to be the global leader”.

The Government concluded that the scheme was not value for money. As the noble Lord also pointed out, there are some queries about the costs. We also heard clearly from the noble Lord, Lord Cameron of Dillington, that the costs are actually fairly comparable and that nuclear is not cheaper than what was proposed. However, if we consider that easy-to-reach oil and gas will start to run out, that global energy demand is rising and that the commitment to tackle climate change gets stronger and stronger, surely the case for wave and tidal power also becomes stronger and stronger.

I found the Library briefing for this debate extremely helpful. One thing stood out for me from it, which was the title of one of the links:

“UK missing opportunity as it swims against tidal energy”.

It invited me into reading the article from *Professional Engineering* of February this year, which turned out to be very interesting. It highlighted the recent success of

a single floating turbine off the coast of Orkney and said that in 12 months, it,

“generated over 3GWh—more than the whole Scottish wave and tidal sector managed in the 12 years up to 2016. It supplied energy for the equivalent of 830 households, weathering the worst winter storms ... in the process”.

I think the noble Lord, Lord Cameron, mentioned that there was also positive news about tidal turbines in the Pentland Firth between Orkney and the mainland, indicating a generation of 8 gigawatts. Yet the Government seem determined to miss the chance to help the UK take the lead in the tidal and wave energy sector. This parallels the stance taken on onshore wind in the 1970s, where it is now quite clear that we missed the chance to take the lead. Denmark and Germany stole a march on us—we also heard about China from the noble Lord, Lord Giddens—and in 1981, the first large-scale wind turbine in Orkney came from Denmark. We ended up being a net importer of onshore wind technology.

Given this situation, it is not surprising that my Liberal Democrat colleague in another place, Alistair Carmichael, the MP for Orkney and Shetland, questioned the Energy Minister, Claire Perry, in March this year about the importance of financial support for the sector. He asked for assurance that financial support for marine renewable energy would be fully recognised in the forthcoming White Paper. Her response was not totally negative but there was no commitment. I was also interested in another exchange in the Commons in April this year when Dr Alan Whitehead, the Labour MP for Southampton, Test, whom I have worked with over a number of years on these issues, questioned Chris Skidmore, the Minister for Universities, Research and Innovation. He asked the Minister to acknowledge that marine and tidal power had been almost strangled at birth by government indifference and even active hostility. Having prepared for this debate and followed energy matters over the course of my parliamentary career—more than 25 years in both Houses now—I believe there is a lot of truth in Dr Whitehead's observation.

With climate change at the top of the agenda for not only politicians but the general public, as we have seen over recent weeks, along with our commitment in the Paris Agreement to decarbonise and the need to support cutting-edge British technology—whether we are in or out of Europe—the Government need to seriously re-examine their record on a lack of support for marine and renewable energy. It is 10 years since the Climate Change Act became law and on 2 May this year, the Committee on Climate Change stated that now is the time to set a more ambitious goal for reducing UK greenhouse gas emissions. It recommended ending our contribution to global warming within 30 years and reducing greenhouse gas emissions to zero by 2050, in line with the UK's commitment under the Paris Agreement. Surely the time has come for the UK Government to embrace the role of wave and tidal renewable energy, to enable us to contribute to this zero target by 2050.

6.21 pm

**Baroness Bloomfield of Hinton Waldrist (Con):** My Lords, I too am grateful to the noble Lord, Lord Cameron, for initiating this important debate. It is important

because it has to be worth exploring any form of power generation that harnesses natural resources to provide baseload power, so long as any potential harm to the environment can be mitigated. I was particularly interested to hear more about offshore tidal lagoons: £82 per megawatt hour for 25 years is more than competitive for a nascent technology. The trick has always been to develop a technology that is scalable and commercially viable.

Tidal power has been of particular interest to me because for 40 years, I have lived in the hope that Wales will be the first country to discover how to harness the power of the sea to generate our power. After all, we have the largest tidal range in the world bar one: the Bay of Fundy in Canada—I have always wanted that to be a Trivial Pursuit question. We have been talking about this for so long without coming to a resolution. Maybe that is just the way of the modern world; in the 1950s, it took less than five years to move from a few lightbulbs powered by nascent nuclear fission technology to the first output from a commercial-scale nuclear power facility.

In 1978, I wrote a dissertation as part of my IB at Atlantic College on the costs and benefits of generating power in the Severn estuary. Sadly, my younger self threw it out, not realising its future potential as a resource, but I remember concluding even then that the environmental impact of the proposed barrage did not seem to justify either the amount of power that it would generate or the cost of its construction. In time, the latter might have been mitigated if turbines had been integrated within the structure of the Second Severn Crossing, or the Prince of Wales Bridge as it is now called. We were also in an era when North Sea gas reserves were lulling us all into a false sense of energy security.

In common with many, I was disappointed that the Government did not follow the recommendations of the Hendry review. I was disappointed for Swansea given the regeneration that a large infrastructure project of this nature would inspire, as well as jobs in the supply chain, tourism and scientific innovation. However, even I recognised that the required subsidy of £305 per megawatt hour meant that it probably did not make a lot of commercial sense initially. But it could have provided proof of concept. As the Hendry report indicated, promising innovations and technological advances could have been made as part of a tidal lagoon programme that might have helped drive costs down. As it is, it joins the long list of potential investments that have been described as Wales' artists' impressions.

However, as the noble Lord, Lord Cameron, mentioned, exciting new technology which can operate in slow-current water is being trialled by Minesto off the coast of Holyhead in north Wales. This "deep green" system operates a tethered kite-shaped turbine, its 12-metre wing carrying a turbine, generator and control system attached to a concrete cable between 80 and 120 metres long, and flies on the hydrodynamic lift provided by slow tidal currents.

The company believes that, in time, the power generated from this site alone could power more than 60,000 households. It is quick to install. The company

began installation in May 2018 and, in October, successfully generated electricity. All this was achieved with private capital and only €13 million of investment from the European regional investment fund through the Welsh European Funding Office. It is an encouraging development. In comparison, in 2003, with the support of the then DTI, The Engineering Business Ltd designed, built and installed the world's first full-scale tidal stream generator, a 150-kilowatt Stingray generator, in Yell Sound in the Shetlands. It had no significant environmental impact, but the power it produced was surprisingly intermittent, the cost of the technology was high, and installation and maintenance difficult. It was also generating power in an area where demand was low and the cost of transmitting it to the grid high. The project was terminated. Technology has indeed moved on.

How do we encourage the private sector to invest in renewable energy? It is estimated that the UK has reached the point where huge new investment in power generation is needed, up to £350 billion by 2030, to keep the power system in a fit state—not just in terms of low-carbon technologies.

The problem is one of trust and timescale. In most commodity markets, scarcity of supply drives up prices, which in turn attracts capital investment to generate increased profits. This has not happened either here or in the rest of Europe, where power stocks are one of the worst-performing sectors. Distrust between the political and industrial communities has not encouraged investment in a field where the period between the emergence of a new technology and its commercial exploitation can be measured in decades. Set against a political cycle of four to five years, this is not surprising.

The Energy Act 2013 introduced CfDs, the long-term guaranteed price for output that was designed to find a strike price sufficiently attractive to potential investors to finance low-carbon new build but low enough to be acceptable to government and consumers. In the case of new nuclear and tidal, this has manifestly not been enough.

The Government need to take that leap of faith by supporting the new schemes that have followed on from Swansea, which promise greater efficiencies and lower costs than the original. The same will be true of battery technology, small modular nuclear reactors and even an Iceland interconnector. To do that, we need strong leadership from government, common sense from the Green movement and confidence among the scientific community that they be allowed to operate in a healthy, supportive environment. While we cannot take the politics out of energy, the current buzzword is compromise. Without that, we shall never produce the mix of technologies that is necessary to meet our energy needs.

6.27 pm

**The Lord Bishop of Salisbury:** My Lords, this debate has already become something of a no-brainer. Quite a lot of what I wanted to say has been said, so there is no point in repeating it, but I want to thank the noble Lord, Lord Cameron, for asking the Question which has generated the debate.

[THE LORD BISHOP OF SALISBURY]

The context is one in which we see a climate emergency, an increasing number of councils across the country responding to it and the other place in Parliament recognising that. Whatever we think of Extinction Rebellion, it has raised the public profile and urgency of the climate change debate and the environmental awareness of what is required of us as legislators. It cannot be business as usual. We need new thinking and new ways of doing things to meet the challenge of being carbon neutral or carbon zero by 2050 or sooner.

For obvious reasons, this country is a great maritime nation. We have been reminded of this today, with the 75th anniversary of the D-day landings in which many of our fathers would have taken part. Earlier today, I was at the annual service for Trinity House. It was founded in the early 16th century as a guild of mariners to bring good order where there were inexperienced and unregulated seamen endangering life and cargo. It was probably also a good move for defence and profitability.

Sometimes, people behave badly and need good governance. It is increasingly clear that our continuing dependence on fossil fuels is people behaving badly. Good law and good governance also encourage good behaviour, and in this case we need to encourage new thinking and a change in behaviour. We know the rich resources that are around the UK; they have already been rehearsed. The task for government is to create a stable and predictable framework for investment, and to move from experimental to developmental to commercial, so that the UK can make the most of its innovative marine technologies and grow opportunity and business in a global market.

Christiana Figueres, who chaired the Paris climate change talks, said at the conference in San Francisco in September that we are moving faster than we could have predicted, and what is making the difference is climate leadership, market forces and digital technology. However, this is not just a technical problem, whether scientific, economic or political. We need to make space and opportunity for the best minds, the biggest hearts and the greatest souls to exercise leadership. That is partly about vision and spirit, but also about regulation and investment. There is growing concern about our slipping back and accepting a rather modest pace of change in relation to renewable energy. It is an area that needs investment—private and public partnership—which will pay dividends in jobs and the economy, and realise the potential of energy that will be renewable and is sustainable.

The question for Her Majesty's Government, asked by the noble Lord, Lord Cameron, is a no-brainer. The response needs to be substantial, determined and transformative.

6.31 pm

**Lord Berkeley (Lab):** My Lords, I congratulate the noble Lord, Lord Cameron, on securing this debate, because the subject has always been of great interest to me. It must have been nearly 50 years ago, when I was a young engineer, that I worked on the Severn barrage project. It was in the days when big projects were great fun. We built the Thames barrier—I did not build it, but others did—big airports in the middle of

the countryside and the Severn barrage. I remember people at the time saying, “We might need 500 million tonnes of rock, but we can knock down a few Welsh hillsides and put them in the sea; that will be all right”. Somehow, we have to build a piece of concrete, presumably, that will take all the turbines that the noble Lord mentioned—he is quite right—get them out there and sink them as a big caisson, a bit like the D-day ones 20 or 30 years on. We will have a nice road and railway across the middle and that will be fine.

As the noble Lord said, the benefit of tidal power is that you can predict when the tides will flow. We looked at Morecambe Bay and the Severn and found that, because there was a difference of three hours between the tides—there is always a difference of three hours, I am told—we could get a consistent output of power, presumably with suitable connections between the two. We are a long way from that but you can predict it, which makes it very different from wind turbines, which have a really good place in our energy mix now but you cannot predict them as well. So I am a great believer in tidal generation. Where I disagree with the noble Lord, Lord Cameron, is that I think the technology, as many noble Lords have said, has moved forward to underwater turbines, either fixed to the seabed or on pontoons. The Devon and Cornwall local enterprise partnership is looking at pontoons for putting a windmill in the air and turbines underneath, moored offshore. That seems the best of both worlds and a technology we should be looking at to harness the tides. We must harness them.

Many noble Lords have talked about good locations and there are many of them. I am sure it can be done. My worry about barrages goes back to my time spent looking at this project. We ended up getting worried about quite a few things. In the Severn, birds are obviously very important—not just at Slimbridge but in quite a few other places. They are in other places, too. Silting would be a serious problem in the Severn, not just if there were a barrage across the middle, but even if it were something like that at Swansea Bay. You can never tell, without doing a great deal of work, how much the silting will change. Will it get better or worse, and how much maintenance dredging would you have to do if you wanted to keep shipping? Of course, the Port of Bristol has always been very much against the Severn barrage, as noble Lords will understand, for very good reasons.

There was also a proposal, I think, as part of Boris Johnson's idea of building an airport in the Thames estuary, to put a bridge or a dam across the Thames, not only to be able to get across by road or rail but also to generate electricity. The tidal range is much less on the Thames than on the Severn, but the silting problem would have been just as bad, and it is bad enough there anyway. What not everybody seems to appreciate is that you have to find all the rock—it is mostly rock, I think—to build such barrages. To take the example of Swansea Bay that the noble Lord, Lord Cameron, mentioned briefly, one proposal was to get the rock from the east side of the Lizard peninsula in Cornwall, where I live, from an old quarry. All the rock would have gone out by sea, quite a few jobs would have been created locally and there would have been very little extra traffic. The environmental fuss that was made,

rightly or wrongly, about taking a comparatively small amount of rock to build this, compared with going all the way across the Severn, was quite surprising to me.

We have to recognise that, in the state we are in now, when we are all very good at protesting at things and opposing things—I am quite good at that myself sometimes—we have to think about the best way of avoiding too much disruption. I suspect that with something like the Severn barrage or Morecambe Bay, you would end up getting the rock from somewhere like Sweden or Norway, or perhaps the Outer Hebrides, with lots of rock to ship. We may have moved on and I hope we can therefore direct more attention to the new technologies, as I call them, of underwater turbines, than we do at the moment. I know that the La Rance barrage in France works well, but that was built a long time ago. It may be therefore that the technology of barrages is being overtaken by the technology of underwater turbines, such as those on board barges or on the seabed.

The noble Lord said that once one is built, there is no maintenance. I slightly disagree with him there. Turbines, whether in barrages or on the seabed, need maintenance. The sea is a pretty hostile environment and there is not much you can do about that. You have to find a way of maintaining them easily, whether off a barge, a roadway or whatever. The way that the offshore industry—not just oil but windmills as well—has taken the technology forward will mean that that will get easier and therefore cheaper in the future. But it still needs doing.

The addition from the barrage point of view was mainly the cost of dredging. If you are trying to keep a shipping lane open or dealing with the changes that happen when the tide comes in and out or goes around, it will need dredging. We have all read about the River Nile and the Aswan Dam, which is completely different because it brings silt down from the middle of Africa. It may have seemed a wonderful scheme 50 years ago, but now it is almost full of silt. The same could happen in the Bristol Channel and in many other rivers. There is a great deal of silt in there and one never knows quite what will happen to the silt and how it will affect it.

I support the need to get much more energy for our country out of tidal movement. There are many places where we could do it; we should be encouraging the research and development of things that sit on the seabed, on barges or wherever they may be. I have a friend who has been dealing with the trials on the Pentland Firth. Amazingly, he has only a 15-minute window during which he can drop things on the seabed before the tide starts rushing in the other direction. They are doing it, so it works—it just needs a bit more development. I would therefore argue against any more lagoons of any size, which will cause more problems in the future. Together, I hope we can get the sum total of a great deal more tidal energy than we have at the moment.

6.40 pm

**Lord Teverson (LD):** My Lords, I congratulate the noble Lord, Lord Cameron of Dillington, on his forensic and deep analysis in opening the debate, and the noble Baroness, Lady Bloomfield, who gave us that very exact background on the subject.

I have an interest in that I live in Cornwall—in fact, the noble Lords, Lord Cameron and Lord Berkeley, do as well. If the Minister is down our way sometime and goes to the north coast, where the noble Lord, Lord Cameron, lives—I live nearer the south coast—and visits Newquay or any of the other beaches along there he will see surfers at all times of year. I think the noble Lord, Lord Cameron, is actually an accomplished surfer. I see him shaking his head—the rest of my speech will be true, rather than fake news. The Minister will see through the surfers the power of wave. I know this debate is more about tidal energy than wave, but we see it in practical action.

The background that many noble Lords have mentioned is the need to decarbonise our economy, as is laid out in the Government's *Clean Growth Strategy*, with which I am sure the Minister is totally au fait. I was particularly struck when the Committee on Climate Change presented its report at the beginning of last month on meeting the zero-carbon target in the UK by 2050. What struck me in the presentation by Chris Stark, its chief executive, was his point that, for the UK to meet that target—we hope the Government will accept that recommendation, although I know that the Minister will not be able to do so today—we have to do everything concurrently. In the past, even I have thought of going down the power sector route first, transport second, heating third and land use and agriculture fourth. We have to do that all together, as I have said in the House before.

Even I think on occasion that we have solved the power sector, so we need to get on with the rest of it—particularly heating, which is difficult. But the fact is that we have not yet solved the power sector. Last year, I think that only 49.6% of our electricity was generated by low-carbon, non-fossil fuel sources, which includes nuclear. We still have the real challenge of getting past that first base in decarbonising our economy. Even in that area, we have a big issue with nuclear at the moment, which is one of the low-carbon technologies. Nuclear power is fundamental to the Government's clean growth strategy; we have Hinkley C, which I visited about a year ago to see how it was developing. However, we now know that further projects there, whether they are supposed to be delivered by Hitachi or Toshiba, are not going to happen. I cannot see a way that they will happen. Indeed, even if those companies were able to deliver, through finance or public support, we know that the National Infrastructure Commission has now said that there should be no more than one nuclear power station in connection with that programme. We therefore have a challenge: how do we reach decarbonisation just of the power and energy sector in time for us to meet those decarbonisation targets?

I welcome the Government's continued emphasis on offshore wind—I wish they would get on with onshore wind as well, which is even cheaper, but they are not doing that. We have to look at other sources as well. As many speakers have said, our marine energy resource is larger off our shores than almost anywhere else in the world. The question therefore comes back to exactly what the noble Lord, Lord Cameron of Dillington, is asking: how do we get that to happen?

[LORD TEVERSON]

There are other benefits to some of these schemes. I take the point made by the noble Lord, Lord Berkeley, about some of the issues with barrages. I certainly have never advocated, and never will, the full Severn barrage, which would be ecologically and commercially the wrong thing to do. However, we have much more subtle and sensitive ways to achieve this now, such as through other forms of tidal lagoon and tidal stream. Even on tidal lagoons, we have potential benefits such as flood control and leisure, and maybe other smaller benefits. We know from other renewable technologies that we have to get them going, and test and adjust them to make sure that ecologically they are right—we need to be sensitive about that to make sure that they are right as regards water movement, silting, and so on. However, we know that, on the whole, those factors can be overcome, and that as time goes on those cost curves come down. We have proved that in other renewable technologies—not so much in low-carbon nuclear, where the cost curve has tended to go the other way—but there must be that potential with regard to the shores of the United Kingdom and tidal and wave energy.

I say that costs can come down, which is why it is so important for the Government to enable this country to get to first base to start to see how these technologies work. We on these Benches are as concerned about value to the taxpayer as anybody else, but we know that we can achieve lower prices if we roll these out.

My question for the Minister is exactly the same as that asked by almost every other Member of the House so far. We have a fantastic resource, which we know in our hearts can be successful in the future and provide us with the leadership that my noble friend pointed out we did not get on wind turbines. How do we make it happen?

6.48 pm

**Lord Grantchester (Lab):** I thank the noble Lord, Lord Cameron of Dillington, for bringing forward this debate on tidal power as we approach the anniversary of the Government's disappointing response to the Swansea Bay tidal lagoon proposals that would have developed this new renewable technology. The Government are due to produce their energy White Paper this summer, and this debate has been a good opportunity to remind them of the potential of tidal ranges and to seek their constructive response.

The Statement a year ago repeated the message of the Government's dismal record on renewable energy. As on previous occasions, the Government left tidal technologies on standstill for two years without dialogue or communication, while other technologies were developing, only to issue the announcement to reject the scheme. At the time, there was widespread criticism of the Government's interpretation of the scheme. This was a pathfinder project, where value for money needs appreciation beyond a strict cost-benefit analysis of the specific scheme. As the debate has highlighted, there is now a new potential renewable technology to add to the mix of future energy sources, a first and only in class, where the UK has unique features of leadership. It could have enhanced the development of energy storage from the quasi storage feature of many

tidal lagoon schemes, as well as having implications for flood management. Tidal lagoon technologies come somewhere between tidal stream and tidal range alternatives, and this location in the Severn Estuary could have been the catalyst for a developing industry, with many leading skills in the area.

What thoughts are there now concerning overlapping benefits for the steelworks nearby at Port Talbot and the wider Welsh economy? How would the planned joint venture with the German thyssenkrupp have looked if this venture had gone ahead? The Welsh Government had been prepared to put funding into the project, with the prospect of creating 2,000 new jobs, providing power to 155,000 properties, which equates to around 11% of Welsh domestic electricity consumption.

Further long-term damage to the investment community may result from the effect of the Government's handling. Once again, the Government's disdain for renewables will lead investors to opportunities overseas, towards projects such as the Sihwa Lake tidal power plant in South Korea. Marine renewables could go abroad, taking jobs and investment elsewhere.

With last year's announcement, are the Government cutting the tidal range sector out of the UK's energy future? What are the Government's views on other projects? I was grateful to receive other engineering plans for the Severn Estuary, such as the Abberton-Minehead barrage, and last month, a glimmer of hope appeared with the alternative plans for Dragon Energy Island, mentioned by my noble friend Lord Giddens, featuring a floating island in impounded water off the coast of Swansea, with plans for modular commercial and residential buildings used primarily to generate tidal energy. It may be too soon for the Minister to be aware of the detail of this important proposal. However, the scheme could capitalise on the work and skills already present at Swansea Bay to retrieve the position following the Government's disappointing decision last year. If the Minister has any assessment yet, it would be helpful if he could come forward with it today.

There are at least other promising signs, such as the tidal project on Merseyside. It was encouraging to see the launch of the next phase of plans to harness the tidal power of the River Mersey and Liverpool Bay earlier this month. The project could ultimately generate one gigawatt of electricity: up to four times the energy of all the wind turbines in Liverpool Bay. This would generate power for up to 1 million homes, equivalent to 500 football stadiums—a good measure of achievement on Merseyside. From designers, architects and technicians to marine contractors and construction workers, the project will create much-needed skilled jobs for the region. In leading the proposals, the city region's mayor, Steve Rotherham, has demonstrated the exact transformational potential that devolution can produce, and the Government should provide leadership as the scheme makes further progress.

With another scheme still in its infancy, the Government must also show direction for the tidal power gateway across Morecambe Bay. The plan, similar to those already mentioned, but built as part of a road link, could create thousands of new jobs and generate energy for 2 million homes, meeting up to 7% of the north-west's



power requirement. The noble Lord, Lord Cameron, mentioned other examples, and I was interested to learn more from the noble Baroness, Lady Bloomfield.

While issuing those challenges to the Minister, I recognise that, as is the case with any new energy source, there are issues to be faced with tidal power. Any construction of tidal projects must minimise the impact on wildlife and the natural environment. Of particular significance will be the effect on distinct local estuary ecology, with impacts on migrating fish and birds that the creation of a new habitat could not mitigate. My noble friend Lord Berkeley mentioned the dangers of silting.

Of course, attention must be given to the effect on the public purse, which must be used wisely to generate maximum and widespread benefit. In the 2017 Autumn Budget, the Government set a moratorium on new low-carbon subsidies regulated by the discredited levy control framework, with the new control for low-carbon levies. This has raised concern that projects such as this and other new low-carbon energy developments could all be set at a standstill until they can proceed without any government support. Can the Minister clarify what the new control for low-carbon levies will mean for such projects, whether tidal or wave, or even other technologies such as geothermal? Will the new control persist at least until after the already committed expenditure on future CfD auctions has been made? Does the new control set the framework for the Government's answer to the challenge of today's debate?

This debate has laid out clear strategic benefits for the UK to develop tidal power. Within the renewables stable of technologies, it has clear advantages of regular, reliable consistency, even with the varying intermittencies as tides rise and fall. Only the Government can lead by providing support to nascent technologies and the necessary funds to fill the gaps. The UK has geographical advantages to exploit this resource, so that tidal power can contribute to and play an important role in the UK's future energy mix—with the potential for global exports, as the noble Baroness, Lady Maddock, noted.

The Government can address that today and, in the forthcoming energy White Paper, set out clearly their intentions by introducing new policy support mechanisms for wave and tidal stream technologies and embrace the new thinking proposed by the right reverend Prelate the Bishop of Salisbury. The noble Lord, Lord Teverson, set out the challenge of meeting the new IPCC parameters and the decarbonisation targets. Against the background of the challenges to meet the fourth and fifth carbon budgets, accelerating climate change, the challenge to meet zero-net carbon emissions by 2050 and diminishing biodiversity, the Government are clearly missing the target.

6.57 pm

**The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Henley) (Con):** My Lords, I, too, thank the noble Lord, Lord Cameron, for introducing this debate and emphasising that what we in this country should be doing is playing to our strengths. He mentioned that, unlike a lot of other countries, we have an awful lot of tides, just as we have an awful lot of wind, and that we should certainly

make use of them. I hope that I will be able to set out what we are doing, what we feel we can support and what the constraints will be in the short time available to me.

I was very pleased that, in the main, everyone—excluding the noble Baroness, Lady Maddock, and the noble Lord, Lord Grantchester—took a relatively positive line on what we were doing. I think that we have a pretty good story to tell in this country. Over the past 30 or 40 years, under a variety of different Governments, we have reduced our emissions. My colleagues and I have said on many occasions that we have reduced them by more than 40% while seeing the economy grow. We want to continue that process.

I make clear in the presence of my noble friend Lord Deben that we will be responding to his committee's report, with its challenging targets, in due course. My noble friend and other noble Lords would not expect me to presume on my right honourable friend the Secretary of State by responding at this stage. We have been set challenging targets. We will want to make progress towards them. We will want to continue to provide leadership for the world, as mentioned by the noble Lord, Lord Grantchester, the right reverend Prelate and the noble Lord, Lord Giddens, who talked about the failings of Brazil and America to acknowledge that there is any problem at all. Again, I remind the House that we are anxious that we should get the opportunity to host COP 26 next year, and support from all sides of the House would create a very positive approach.

Living where we do, we obviously want a diverse electricity system that provides homes and businesses with secure, affordable and clean power. However—we keep coming back to this—we want that power at a cost that is both acceptable and supports continued growth. On many occasions, noble Lords have talked about the fact that costs come down. We have seen that with wind, solar and tidal; I am grateful to the noble Lord, Lord Berkeley, for his comments there.

There is some doubt about whether one will see costs come down in quite the same way for a technology that is not exactly new and, as the noble Lord reminded us, is largely about pumping a lot of concrete and rock into the ground; after all, concrete is not the most carbon-friendly material. One cannot see technology reducing costs there in the same way as it has done for wind and solar. Again, as the noble Lord, Lord Cameron, said, we must play to our strengths; we will do so for wind because we are a very windy spot. To do that, we obviously need to continue to bring down the costs of all forms of low-carbon generation; I am grateful to my noble friend Lady Bloomfield for mentioning how many there are. As the noble Lord, Lord Teverson, said, we have not seen the same cost reduction in areas such as nuclear as we are seeing with solar and wind.

I have some criticism of the noble Baroness, Lady Maddock, for taking a rather negative approach to what the Government are and have been doing. We are investing a great deal of public funds—some £900 million—in innovation, including a further £177 million to reduce further the cost of renewables and up to £100 million in leading-edge carbon capture and storage and industrial innovation. That is to drive

[LORD HENLEY]

down the costs there and, as I said, we have seen remarkable cost reductions over the year. We have seen low-carbon generation rise from 54% in the third quarter of 2017 to a record high of 56% in the third quarter of 2018, due to that increased renewables generation.

It has been a record-breaking year. I will give noble Lords some figures, although I will probably be able to give even better ones in a few weeks' time. We have gone a whole fortnight without any coal-fired generation, which we aim to get rid of. This is in a country where, some 70 years ago, a Labour politician said:

"This island is made mainly of coal and surrounded by fish".

Anyway, we are getting rid of the use of coal to generate electricity; as I said, we have just gone another fortnight without using any. Last year, there were nearly 1,800 coal-free hours over 10 weeks in total—so we are making progress.

I will deal with one or two individual issues. Since all noble Lords mentioned Swansea Bay, it is right that I address both that and the programme for six tidal lagoons proposed by Tidal Lagoon Power Ltd. I repeated the Statement made by my right honourable friend in another place on costs. We made it quite clear that the costs of that particular programme did not meet our requirements for value for money. I appreciate that the noble Lord, Lord Giddens, had some queries about that, as did other noble Lords, but we published a summary of our value for money analysis. The figures were clear; even the developer himself conceded that the project required a CFD strike price three times that of onshore wind.

Further, that issue was looked at by both the Welsh Affairs Select Committee and the BEIS Select Committee, which published details of the additional requests from the Swansea Bay developers over and above a 35-year CFD at £92.50 per megawatt hour. It was expensive. That fact was echoed by the National Infrastructure Commission in its national infrastructure assessment, published last July, which stated that,

"tidal lagoon power will remain an expensive technology in the future. The extra benefits which arise from its predictability are not enough to offset its higher capital costs. And it will never be a large-scale solution: an entire fleet of tidal lagoons would only meet up to 10 per cent of current electricity demand in the UK".

I appreciate that other tidal projects are being looked at. For example, the Mersey and the Solway—in my part of the world—were mentioned. Officials and Ministers in the department have had several meetings with those promoting such things. We will continue to hold meetings and talk to developers. For example, the Solway Firth tidal lagoon project is at much too early a stage of development: to date, the engineering details have not been finalised and the developers have not yet applied for the consents and licences that would be required to develop the site. Obviously, we will continue to look at that project, take an interest and make a decision in due course on whether the project is good.

As the noble Lord, Lord Grantchester, mentioned, it is important to take environmental considerations into account, but there has been no detailed monitoring at this stage. For example, no seabed surveys have been

undertaken on the sites; I am thinking in particular of the one in the Solway. So at this stage we must proceed carefully before going further.

Other noble Lords, of which the noble Lord, Lord Cameron, was the first, mentioned the possibility of tidal stream energy. Again, that should be looked at. The Government have provided long-standing and targeted support for the development of both wave and tidal stream energy. Since 2003, we have provided £175 million of innovation funding in the wave and tidal sectors; we have provided almost £80 million of that since 2010.

That has supported many firsts, including the world's first megawatt-scale tidal stream turbine, SeaGen, which was deployed in Strangford Lough in 2008. There has been much mention of Orkney, including by the noble Lord, Lord Berkeley, and the noble Baroness, Lady Maddock. I visited Orkney last year and met her colleague, Alistair Carmichael, and saw some projects that are being tried out there, with government money going into them. The world's first pre-commercial array, the 6 megawatt MeyGen project off Caithness, received £10 million from BEIS innovation funding and is supported under the renewables scheme.

There have been some successful small-scale tidal stream tests over recent years. They are still at an early stage of development but they might be at the point where, as with wind, the price could come down—although I suspect that, for some of the bigger tidal barrages, the prospects are possibly less good. However, it must still be viewed in the context of the falling costs of other forms of low-carbon generation such as offshore wind. At the moment, their costs are five times that of offshore wind. I assure noble Lords that officials, Ministers and my right honourable friend Claire Perry will continue to engage with the sector to better understand its cost-reduction potential.

Finally, I reiterate that we will publish the energy White Paper in the summer, which will build on my right honourable friend's strategy address in November of last year, setting out four guiding principles for electricity policy and addressing the challenges arising from the radical transformation of the energy system over the coming decades. It will take a long-term view of the energy system, out to 2050, and show just how we can deliver our climate change goals and the aims of the industrial strategy. At that point, or sooner, I hope that my right honourable friend will be able to respond to my noble friend Lord Deben and his climate change committee report.

I appreciate that my time is up. I hope that I have given a partially positive view of what the Government can do. There will be more we can do and further developments in all forms of renewable energy. Tidal may be part of that, and all forms of tidal—whether by barrage or otherwise—will be looked at.

**Lord Grantchester:** I appreciate that the Minister is under tight time constraints, but as the energy White Paper approaches, could he give us a detailed answer on how the control of low-carbon levies will operate?

**Lord Henley:** The noble Lord will have to be patient and wait for the White Paper. No doubt we will respond and he will have an answer in due course.

## Heritage Rail: Young People

### Question for Short Debate

7.11 pm

Asked by **Lord Faulkner of Worcester**

To ask Her Majesty's Government what is their response to the report of the All-Party Parliamentary Group on Heritage Rail, *Engaging the Next Generation: Young People and Heritage Railways*.

**Lord Faulkner of Worcester (Lab):** My Lords, first, I express my appreciation to all noble Lords, and the right reverend Prelate, who have put their names down to speak in this debate, especially those who took part in the inquiry carried out by the All-Party Parliamentary Group on Heritage Rail. I declare an interest as a vice-chair of that group, and as president of the Heritage Railway Association. The HRA is a remarkable organisation whose 300-strong membership includes no fewer than 156 operational railways. These stretch for 562 miles—almost the same distance as from London to Mallaig on the north-west coast of Scotland. There are also 460 heritage railway stations, a similar number to those managed by Northern Rail.

From the pioneers on the Talylyn Railway in 1953, and the first standard-gauge heritage railway, the Bluebell, in 1960, heritage railways have come a long way. They attract 13 million visitors a year, employ around 4,000 staff and depend on 22,000 volunteers. Railways were Britain's gift to the world, starting with Trevithick's locomotive of 1804, and the first railways in other countries were built by British engineers such as the Stephensons—father and son—and Brunel. The first steam locomotives in France, Germany, America and many other countries were made in Britain. This contributes to the strong interest of visitors from other countries in the origins of their own railway systems.

The economic benefits of railways and tramways spill over into the wider communities, with research suggesting that local economies benefit by almost three times the turnover of the railway or tramway. That in turn suggests that heritage rail is worth as much as £400 million to the UK economy.

Rail enthusiasts, of course, have their own agendas and itineraries, but the location and nature of many railways also appeal strongly to visitors to the UK. Heritage rail's full contribution to Britain's inbound tourism economy is not easy to measure, but there is no doubt that it is as significant as that of many of the UK's other international attractions such as Buckingham Palace, the Tower of London, Edinburgh Castle and others.

Heritage railways also support local economies through employment and spending on supplies. Many operate in rural areas where alternative employment is limited and the opportunities for jobs in engineering non-existent. They also provide valuable skills training, often in areas where employment opportunities, particularly for skilled workers, are low. They provide entry level jobs for a wide range of skills and disciplines. For younger staff and volunteers, they offer a valuable training ground for subsequent jobs on the mainline network.

Recognising this, and following the publication of the all-party group report, the HRA has introduced a new annual award for outstanding young volunteers, which I have the privilege of sponsoring. Earlier this year, the first awards were made to seven exceptional young people working on heritage railways around Great Britain and Northern Ireland. For students, a steam railway offers a living example to support so much of the school curriculum, particularly the STEM subjects of science, technology, engineering and maths, but also history, geography, economics and geology.

For older volunteers, steam railways offer an active and productive activity for people who might otherwise have a sedentary lifestyle. They unite people from a wide range of backgrounds and a wide geographical area, supporting social cohesion. I commend to your Lordships Nicholas Whittaker's comment in his book *Platform Souls: The Trainspotter as 20th-Century Hero*:

"Trainspotting has always been a democracy, embracing all men, from right scruffs to Right Honourables."

Heritage railways bring big environmental benefits through the green corridors that they provide, with their own flora and fauna. Perhaps surprisingly in view of this, heritage rail in the UK is unsubsidised. Other than modest grants, for which bidding is often competitive, the industry pays its own way.

Heritage rail travel in the UK is not limited to the sector's own track. The country's mainline network owners understand the historic and commercial benefits of steam-hauled trains, carrying passengers in heritage carriages on substantial journeys across some of the country's most spectacular scenery, using iconic locomotives such as "Flying Scotsman". Other heritage railways provide public transport services or sustainable tourist transport, especially at destinations where car-free access is a benefit, such as national parks.

Britain is the only country in the world that has passed legislation specifically to ensure that we secure the preservation of evidence which is significant to the nation's railway history. No other industry in the UK is viewed in this way, and I am happy again in this House to pay tribute to the noble Lord, Lord Taylor of Holbeach, for his willingness back in 2013 to listen to me and other noble Lords and agree that the statutory powers contained in the Railway Heritage Act 1996 to designate that artefacts and archives would be maintained following the abolition of the Railway Heritage Committee.

Those of us involved in railway heritage have a duty to ensure that what is important to Britain's railway history is preserved and made available for present and future generations to enjoy. We do this in a variety of ways. The most important is to maintain world-class railway museums which tell the complete railways story, from their effect on social, business and industrial life through to demonstrating the very latest developments in modern railway operations. The National Railway Museum York, part of the Science Museum Group—I declare a former interest as a recently retired trustee and deputy chair—is the very best example, and maintains the proud tradition of free entry. Another member of the family is the Science and Industry Museum in Manchester, which contains the world's oldest surviving railway station at Liverpool Road, dating from 1830.

[LORD FAULKNER OF WORCESTER]

Only people over 50 now have any memory of steam working on the BR network, but subsequent generations are just as engaged and knowledgeable about the steam railway as we were. We need that to continue to ensure an adequate succession of younger volunteers who can acquire the skills and continue the operation of this precious legacy of heritage railways for future generations to enjoy. It is not easy. Regulation is more stringent than when the movement started, and safety, quite rightly, is more closely managed and overseen than in the past. The cost of materials rises as Britain's industrial base shrinks, and in some cases the future supply of basic raw materials such as coal is in doubt—as we heard in a recent debate—and is the subject of the APPG's current inquiry.

The last thing the movement needs is obsolete legislation that hinders the recruitment and retention of that next generation of volunteers to carry the torch forward. Yet that is the position with the Employment of Women, Young Persons, and Children Act 1920, a piece of legislation introduced following the establishment of the International Labour Organization in 1919—an era when, of course, no heritage railways existed and working conditions were vastly more dangerous than they are today. The concept of employment was deemed to include volunteers by the Education (Work Experience) Act 1973, which disapplied the 1920 Act in the case of children undertaking work experience. But this does not address the situation where a young person wants to volunteer for work on the railway on a long-term basis and is not linked to a work experience scheme.

Counsel's opinion, taken by the HRA, confirms that this prohibition on working on railways extends to ancillary activities, effectively barring under-16s from enjoying the experience of working on a steam railway. The experience of member railways is that this period between the ages of 14 and 16 is crucial for many youngsters in deciding the activities, interests and career choices they want to follow as they grow up. Losing them at this early stage leaves the movement with insufficient young volunteers of 16 or over.

The issue has been discussed with Ministers and officials, and back in July 2017 I introduced a Private Member's Bill, the Heritage Railways and Tramways (Voluntary Work) Bill, which would have resolved the issue. As it is so far down the list, it is unlikely, even in this extraordinarily long Session, to make progress. But assuming that the Government are unwilling to support primary legislation, I ask the Minister whether they would be prepared to consider secondary legislation under the Health and Safety at Work etc. Act 1974, which I understand from the HRA's legal team would achieve the desired result. That Act makes express provision for the 1920 Act to be amended by statutory instrument by the Secretary of State and so enables the removal of the prohibition on the engagement of young volunteers in the activity of heritage railways. I make this request to the Minister today: will he please help us to resolve this anachronism and, in the first instance, use his good offices to convene a meeting with the Heritage Railway Association and myself that involves his department, the Department for Work and Pensions and the Department for Transport? Between us, we can resolve this issue.

7.21 pm

**Lord Jones of Cheltenham (LD):** My Lords, I congratulate the noble Lord, Lord Faulkner, on initiating this debate and thank the All-Party Parliamentary Group on Heritage Rail for producing its report. I shall concentrate my remarks on the heritage railway that I know best—the Gloucestershire Warwickshire Steam Railway, which is run almost entirely by volunteers. I declare an interest as a very small shareholder in the GWSR. The railway runs from Cheltenham Racecourse for nearly 15 miles along a picturesque route through Gotherington, Winchcombe, Hayles Abbey Halt and Toddington, and now all the way to Broadway. It runs through the Greet tunnel, which, at 693 yards, is the second-longest tunnel on a British heritage railway. It also crosses the Stanway viaduct, which has 15 arches and is 42 feet above the valley floor.

Having served on the High Speed Rail (London - West Midlands) Bill Select Committee, I have seen documentation of protests back in the day opposing this and other railways. Petitioners claimed that railways would spoil the countryside and that the noise would be intolerable. It was ever thus, right up to the current day. The HS2 committee sat for four days a week over several months and heard from more than 800 petitioners. I enjoyed the moment when a distinguished former military officer took the stand and told us, “My Lords, my Lady, we don't want these things rattling past our homes”. We were fortunate to have access to advice from Rupert Thornely-Taylor, one of the most experienced sound specialists in the world. We called him to give evidence and I asked him, “Are these trains really going to rattle?” He thought for a moment and then replied, “Lord Jones, if they rattle, they are in desperate need of maintenance”. The truth is that HS2 trains will simply go whoosh.

The noble Lord who initiated this debate knows the GWSR well as he graciously opened the Broadway extension on 30 March—my birthday—last year. The herculean efforts in completing the extension were acknowledged in February when the GWSR was awarded the Heritage Railway Association's annual award for large groups. In the latest annual report, the chairman of GWSR, Richard Johnson, recalls that the noble Lord, Lord Faulkner, suggested that Broadway would become a very attractive destination but doubts that even he would have envisaged quite how attractive.

The Broadway extension has been a great success, attracting many more visitors to the railway. The GWSR employs seven staff and has more than 900 volunteers. It takes more than 50 volunteers to run the railway on a three-train day. The latest annual report tells us that all scheduled services were run over the past year, a remarkable achievement, and that more than 125 volunteers help each day with the Santa specials held on 11 days during December.

Local passenger services ended in 1960 and the line was officially closed in 1976. In 1979, the track was lifted and many buildings were demolished. Between 1976 and 1984, local people and railway enthusiasts—volunteers—initially tried to save the line. Then they raised money and bought 15 miles of track bed and the remaining associated buildings. They were granted a light rail order permitting them to rebuild the line

between Broadway and Cheltenham. Track-laying began and public services started, initially over 700 yards of track. Between 1984 and 2016, volunteers steadily restored the line, building stations and signal boxes and replacing lost signals and other infrastructure. Despite major landslips, the track was gradually extended to 12 miles in length and comprised three main stations and one halt. During this period, work began on the major extension to Broadway with the line ending at Laverton.

The GWSR has five resident engines: the Churchward 28XX class 2-8-0, No. 2807, the oldest GWR locomotive in working order and the third-oldest in existence; the Churchward 42XX class 2-8-0, No. 4270; the Bulleid Merchant Navy class 4-6-2, No. 35006; the Hawksworth Modified Hall class 4-6-0, No. 7903; and the Collett Manor class 4-6-0, No. 7820, "Dinmore Manor". The last two were rescued from Barry scrapyard.

On 25 to 27 May this year, GWSR held a festival of steam and welcomed three other engines: Mackintosh 0-4-4T, No. 419, in Perth blue from the Scottish Railway Preservation Society; B1 class 4-6-0, No. 1264, in LNER lined black from the North Yorkshire Moors Railway; and, making a return visit, GWR King class 4-6-0, No. 6023, "King Edward II" from the Didcot Railway Centre. The festival attracted large numbers of enthusiasts and was a great success.

Since 2016, the railway has experienced tremendous growth, which has enabled the volunteers to rebuild Hayles Abbey Halt and Broadway station, wherever possible in the style of the original stations. Volunteers include carpenters, bricklayers, plumbers, upholsterers, electrical engineers, painters, mechanics, health and safety professionals, accountants et cetera, as well as many with experience in IT, social media, administration, catering and so it goes on.

I told GWSR about this debate and asked whether it had any advice on engaging the younger generation. I received a helpful reply from Ian Stewart, the volunteer resources director. He wrote:

"GWSR works hard to attract younger volunteers. One-third of the 17 who attended our latest induction course were between 18 and 25. That is healthy, as with two-thirds of our current volunteer force over 60 we clearly need to build the next generation of enthusiasts. We concentrate on attracting youngsters over 18. Once fully trained, they can make a significant contribution to our many departments. Interest from volunteers under 18 is directed towards the youth group, which is carefully run to maintain and strengthen their interest so that they will join one of the departments once over 18. We are guided by current legislation affecting young persons, and also the clear legal responsibilities we have towards all our volunteers. We are content with the current structure".

The noble Lord, Lord Faulkner, has already raised some legal issues, so I shall ask about another issue on which GWSR would like some clarification. With decarbonisation targets necessary to halt climate change, whatever President Trump may say, what are the Government's plans for heritage railways that use coal to power steam locomotives? Will there be exemptions for these historic railways, or what else might they do to help meet these targets? If the Minister cannot say today, perhaps he will write to me.

7.30 pm

**Lord Berkeley (Lab):** My Lords, I congratulate my noble friend Lord Faulkner on securing this debate and on the work he has done with the All-Party Parliamentary Group on Heritage Rail. It is vital to keep interest going in this area, and tonight many of us will concentrate on the problems related to volunteering.

Years ago when I worked on the Channel Tunnel, we tried to get volunteers in France and the UK to help to make life better for everybody, and I was very struck by the difference in attitude towards volunteering between the British and French people. Here, I think we do very well. We could do better but we have a long tradition of volunteering in many businesses and sectors and occasionally in industries. In France, there was nothing. They said, "We're not going to volunteer because, if it's worth doing, the state will provide". We can comment on that but that is the way it is, and we should be very grateful for what we are able to do in this country.

I was also struck by the summing up of the noble Lord, Lord Henley, at the end of the previous debate on energy. He said that very soon we will not be burning any more coal. I nearly stood up and said, "Except on the heritage railways if you know what's good for you". It is really important that we have a continuous supply of coal, as the noble Lord, Lord Jones, has just said. However, I will not talk about that tonight.

I declare an interest as the patron of the Helston Railway in Cornwall, which claims to be the southernmost railway in this country—a claim that I do not think anyone is competing with. When it comes to volunteering and business, this is probably one of the few sectors where this combination is to be found. Each heritage railway is a charity and a business, and it has lots of volunteers—not all its workers are volunteers but a large proportion of them are—and it is a very safety-conscious sector, as it has to be. It is probably unique in that. We know that if the volunteers have to be paid, most railways will close, but how will we keep them coming? If we do not, we will not have many heritage railways.

My noble friend mentioned that getting people to volunteer in their formative years and giving them practical experience is very important in this day and age. It is also very important that people study science, technology, engineering and mathematics rather than going off to do media studies, which an awful lot of them seem to want to do these days. It is a great start to a career in many fields, including the mainline railway, and it needs to be done during school age because that is when children's friends do it and talk about it. Working on the railways provides a kind of pipeline of skills and I am sure that it leads to a sustainable future. As I said, lots of volunteers go on to work on the national railway system.

Looking at the age profile of many people in the transport sector, the situation with the mainline railways is getting better. They have even discovered the need to have women, which is a great step forward. There need to be many more but at least a start has been made. In the trucking industry, people tend to be older and that industry will have problems. Whether people who have

[LORD BERKELEY]

worked on heritage railways as trainees or volunteers would move on to drive trucks is a debate that we can have, but we are lucky in the railway sector because, once people have learned the joys of working on trains, it is more likely that they will go on to work for the national railways.

Therefore, I am really pleased that the HRA is pushing the question of volunteers—a point mentioned by my noble friend Lord Faulkner. My understanding is much the same as his—that the HRA has been informed by counsel that the engagement of children as volunteers on the heritage railways is contrary to the provisions of Section 1 of the Employment of Women, Young Persons, and Children Act 1920. It is appropriate to ask, “What about the men?”, although I suppose they are covered by “Young Persons”, but I find it interesting that women were singled out in 1920. The Act states:

“No child shall be employed in any industrial undertaking”.

The definition of an industrial undertaking includes railways. Whatever we think, that is what it says. As my noble friend said, the 1920 Act was amended by Parliament to make provision for formal work experience through the Education (Work Experience) Act 1973. Formal work experience is therefore allowed for those under school leaving age, while simply volunteering is not. Many people would prefer, for various reasons, just to volunteer. Section 558 of the Education Act 1996 states that,

“any person who is not over compulsory school age shall be deemed to be a child”.

I do not know whether that is stating the obvious but it is not very helpful.

I have been advised that the Secretary of State for Work and Pensions should be able simply by statutory instrument, as my noble friend said, and without resort to primary legislation, to exclude heritage railways and tramways from the requirements of the Employment of Women, Young Persons, and Children Act 1920. Again, it is believed that this can be done through powers vested in the Secretary of State by the Health and Safety at Work etc. Act 1974. I would be very grateful if the Minister could confirm that. If he says that that is not true, then, as my noble friend has already asked, what other solutions does he have?

In conclusion, it is good to recall that when the right honourable Margaret Thatcher was Secretary of State for Education, she responded to demands for practical work experience within the school curriculum by introducing legislation to amend the application of the 1920 law to permit work experience in industry—I repeat, in industry—as part of the curriculum for students in the last two years of compulsory education. I am sure all noble Lords will agree that that is an important need: to give students, or young people, some practical experience of what life is like in industry. There seems to be some support for a change in the law. The Department for Education has not found a legislative route to allow such a change; maybe we should try a different route and a different department. Perhaps the Minister could advise us. I congratulate my noble friend Lord Faulkner on the number of

attempts he has made in this place and many others, including through the National Citizen Service Bill, but his amendments have not been accepted.

The Office of Rail and Road is the safety authority for all railways; I think we can all agree that it does a very good job in making sure this industry is safe. It supports the change of law, and assured us in 2016 that enforcement action under this 96 year-old legislation would not be in the public interest; that is some comfort, but we need more. I hope that when the Minister responds he will be able to give us lots of comfort.

7.39 pm

**The Lord Bishop of Leeds:** My Lords, while congratulating the noble Lord, Lord Faulkner, on securing this debate, I must confess to some surprise at standing to speak in it. I have little knowledge or experience of heritage railways, despite having had such a beast going through the village where I was for eight years a vicar in Rothley in Leicestershire and now having several in the diocese of Leeds. I am not proud of my ignorance, but engineering never quite got me; I guess I was more of a media studies man. I fully accept that this probably makes me a rarity among clergy in the Church of England, but I do see the import of this report and fully endorse what this debate seeks to achieve.

Heritage railways seem to hit two nails on the head in a changing Britain where social capital and the development of skills in young people need some investment at all levels. The two nails are volunteering and skills development in team contexts. We know from history and experience that, if you want to get commitment out of children and young people that will shape their adult engagement in the wider world, you need to start them young. Volunteering in a fairly selfish age has to become part of the DNA of people when they are very young, so raising the lower age limit for young people to develop as volunteers—learning skills in basic civil engineering, teamwork, track-laying and so on—is not something to be celebrated. We know that teenage volunteers often train for roles such as assistant guards, station assistants and locomotive cleaners, gaining skills and experience that will shape them for the future.

The culture of safety, as has been mentioned, is essential, but also beneficial to those growing up in it. These young people get to work with the public, learn timekeeping, and learn craft skills including woodwork, painting, metalwork, hedging, land management and so on. Given a school system that often wants to measure results in a limited way, surely these learnings have to be gained outside formal education; such railway environments offer something unique. Young people need to start before they get into GCSEs, exams and the pressures that we all know about. Under-16s have an opportunity here to gain practical and human skills through volunteering in a safety-conscious environment that has purpose and gives satisfaction. Working in teams across all age groups teaches responsibility and helps maturity.

The Employment of Women, Young Persons, and Children Act 1920 was surely once useful and necessary, but it is not the right instrument for today’s world. Our young people do not now need to be protected from industrial exploitation as they did in the past. Surely it

is time to lift the current uncertainty over the implementation of this law so that young people can continue to access and benefit from the kind of life experience that heritage railways are uniquely placed to offer.

In *Thomas Comes to Breakfast*, Thomas the Tank Engine comes out of the repair shop and is not happy. He says, "It's nice to feel mended again, but they took so many of my old parts away and put new ones in, that I'm not sure whether I'm really me or another engine". Imagine being the teenager who has the opportunity to cause Thomas the Tank Engine such serious existential angst. We need to encourage our young people.

7.43 pm

**Lord Grocott (Lab):** My Lords, I am not just being pleasant, polite and traditional when I say thank you to my noble friend for introducing this debate; his commitment to heritage railways is second to none. I also want to thank very much indeed Chris Austin, who is described variously as secretary or clerk to our committee and known to so many people for his encyclopaedic knowledge of the railway. He has had a lifetime in the industry in one way or another and, more than anyone else, has been responsible for our reports. I have been in a lot of all-party groups over the years but I am very proud of the work this one has done and in particular of two very substantial reports, copies of which I have here. They are substantial pieces of work and are Chris Austin's work more than most, and those involved in heritage railways. They have been brought to the attention of the Government without a Civil Service secretariat, something we associate with most reports that are presented to Parliament. Thanks to Chris are massively in order.

The specific subject of today's debate is young people and heritage railways, but that really cannot be discussed except in the context of our previous *Report on the Value of Heritage Railways*, which highlighted the value that such railways present to many local economies up and down the country. They are continually bringing benefits—and not just economic benefits—to their areas and, of course, they are expanding all the time. I can barely believe how this industry or sector has expanded in, as my noble friend said, a matter of just 60 years, beginning with the Talylyn railway—literally a very small railway that is half the gauge of a standard gauge railway. At the time, that seemed about as much as could be managed, but the sector went on to take on standard gauge lines. I remember going to Bridgnorth shortly after the line was closed and, if anyone had said to me then—with the weeds growing, the saplings coming through and the dilapidated buildings—that that would be a thriving railway line now, I would have said, "I would love to believe you, but I can't really get my head round that".

Today, as we have heard, there are more than 100 heritage railway lines, involving at least 22,000 volunteers and 3,500 or possibly 4,000 full-time equivalent employees. Many of them have a turnover in excess of £1 million a year, with a total benefit to local economies estimated at £250 million. In addition, most trains on these lines run on time and at no cost to the public purse, in contrast to those of a number of train operating companies.

Our report emphasises the importance of young people to the future of the sector. There is perhaps an image of heritage railways as being about people of roughly my age with a nostalgia for steam playing at trains in a kind of amateur way, chuffing up and down a few miles of track and being drivers and guards and all the rest of it. Well, there may be a bit of that, but it is far more significant. I pray in aid the range of skills that you will see functioning on an average heritage railway today, where the volunteers may include engineers, plumbers, planners, electricians, accountants, surveyors, carpenters, lawyers—all people giving of their professional skills in their spare time. They are not just maintaining existing railways but for ever opening new extensions and new lines. It is an ever-expanding industry. The relevance of that to young people in particular—and we could all give examples from the railways that we are familiar with—is that 16 and 17 year-old youngsters, working alongside professionals such as those that I have described, derive tremendous benefit, which may quite possibly include economic benefit for themselves and employability benefits later on. It is almost like a traditional apprenticeship where they are working with senior people with skills.

Perhaps I should declare my own specific interest in this at the moment as I am—you will be excited to know—president of the Telford Steam Railway; I happen to have some brochures with me, if anyone would like to come along. That railway is only a small line, but it has a turnover of £1 million a year and has big ambitions. Due to various rules and regulations—some of which emanated from the EU, I am afraid—the coal-powered station has closed down and we now have a redundant branch line, but we are hoping to run passenger trains on it. However, that is a diversion. I simply wanted to say that there are examples from that railway of youngsters benefiting. One young chap who worked with a skilled engineer now has an apprenticeship with Network Rail. Two youngsters who worked as guards on our railway went on to be guards for a couple of train operating companies. So there is an obvious benefit to young people who can acquire skills.

Of course, those may not be just economic skills. As the right reverend Prelate has already mentioned, heritage railways can also prepare people with all the advantages that we recognise from volunteering, such as turning up on time, involvement in collegiate activity and developing confidence. If you have been working on a heritage railway, and then you start an apprenticeship with Network Rail, on the uncertain first few days, weeks and months at work, you have a basis for discussions with the people who are now your colleagues. People get a lot of confidence from that.

I emphasise again that the skills required for heritage rail are not all rail-specific, by any means. If your interest happens to be catering, you can find an outlet at most heritage railways. The same applies if it is retail, marketing or even journalism—pretty much every heritage railway produces quite an impressive magazine. There are a whole range of non-rail-specific skills, talents and potential careers available to our young people through heritage rail. It brings not just economic benefits but social benefits as well.

[LORD GROCOTT]

I hope the value of this report is that it will draw to the Government's attention the significance of our heritage railways. They are not an amateurish operation by elderly people who are more or less just chuffing up and down a line. They are professional organisations and are professionally run, although without pay in most cases, with young people coming on within them. I hope that the Government will listen to what we are saying and act on it, helping in the numerous ways they can.

7.51 pm

**Lord Snape (Lab):** My Lords, it is a pleasure to follow my noble friend Lord Grocott. Like him, I congratulate my noble friend Lord Faulkner on securing this debate and on the work he has done in this field over the years. I also take this opportunity to welcome the right reverend Prelate the Bishop of Leeds. All too often, these debates are fairly exclusive; I find we are apt to be known as the verbal gricers of the railway industry. Bishops and railways go together quite well, of course. Bishop Eric Treacy was a well-known figure during my time in the railway industry. There was only one line of the right reverend Prelate's speech with which I might disagree at some future stage. He said that young people do not need protection under the 1920 Act. Of course, he is right as far as the railway industry is concerned, but if this House ever gets around to debating the fast-food industry, I might take issue with him on that point. However, I commend his speech and his contribution today.

Looking back at the history of the railways, particularly in the context of this debate, it is a sobering thought that the youngest former cleaner who embarked on his first shift on a locomotive and left the depot on the British Rail standard gauge would now be approaching 70 years of age—an ominous warning to all of us of the passage of time. However, the attraction of the railway industry, particularly the heritage railways and steam locomotives, is one that includes all generations.

The "Flying Scotsman" locomotive is currently on tour. There has been some adverse publicity about the thousands of people who have gone to see it, some of whom got a bit closer to the lineside than they should have done because of the attraction of this particular locomotive. I visited the East Lancashire Railway with my grandson towards the end of last year, when the "Flying Scotsman" was there. My grandson is now 15 and if he remembers his grandfather for anything, I hope it is for getting him on the footplate of the "Flying Scotsman" on the East Lancashire Railway.

As my noble friend Lord Grocott said, people do not volunteer for just the locomotive department. There are various other jobs in the railway industry and he reminded us of some of them. On the mainline railway, there are still many hundreds of signal boxes. Of course, the intention is to concentrate mainline signalling on 10 or 12 regional operating centres in the years to come, but there are still lots of manual signal boxes on the mainline railway. Certainly as far as the heritage railways are concerned, operating those signal boxes will continue for many years to come.

The debate is first and foremost about attracting young people to the railway industry, and not just because of steam locomotives, as I have indicated;

there are lots of other valuable jobs that they can do and to which they can contribute. Like previous speakers, I will for a moment be somewhat parochial. Towards the end of last year, I visited the Tyseley Locomotive Works just outside Birmingham. I talked there to some of the people who operate the works and the locomotive department. Subsequently its chairman, Mr Michael Whitehouse, contacted me about attracting young people to what is a working locomotive maintenance and operational depot—possibly one of the few left, certainly alongside British Rail. I quote from his letter:

"We already run an apprentice scheme for three students in conjunction with Bournville and South Birmingham colleges. We intend to introduce further training schemes and are already in dialogue with the Office of Rail and Road to establish a training scheme for railway operational staff".

He says that they are anxious,

"to expand and upgrade our facilities to meet the significantly increasing demand for repairing heritage steam locomotives".

I hope the Minister will be able to convince his colleagues in the Department for Transport of the need for a ministerial visit to the Tyseley works so that they can see their operational nature, and that any application made to the ERDF, for example, is sympathetically supported by the Minister's department as well as the DfT.

I would like to draw your Lordships' attention to another aspect of heritage railways—the need for connectivity between the heritage railway and the main line. If we are to attract young people and to train perhaps young would-be managers in the mainline system, they would certainly find that connectivity between the heritage railway and the main line attractive. It would be enormously useful.

Network Rail has lots of problems, some of which come in for considerable criticism in your Lordships' House, as well as in the other place. Without adding to its burden, we should point out that occasionally Network Rail shows itself to be both expensive and uninterested in its connection with the heritage railway system. I will give your Lordships an example. Recently, the Swanage Railway was not a consultee on proposed changes involving its main line connection near Wareham, even though this was re-signalled to rejoin the railway with a grant from Dorset County Council. Network Rail is something of a Goliath as far as the heritage railway sector is concerned, but the voluntary sector faces heavy expenditure for track and signalling alterations. I wonder whether the Minister could take back the message that it would certainly be extremely helpful if heritage railways were made a statutory consultee where this sort of work, which might well affect their own operations, is concerned. At the moment, it is very much a matter of whether Network Rail consults them. In the case of Swanage Railway, it did not.

I referred to the fact that there are many jobs that young people could do in the sector, as did my noble friend Lord Grocott. We have heard about the plea and desire to look again at the regulations and the 1920 Act. Of course, it is all very well for the Office of Rail and Road to say that it does not anticipate taking any action under this statute—I welcome that news—but if a young person is injured I am not sure whether the



legal profession would take the same laid-back view of its responsibilities. It would be useful if the legislation was withdrawn.

Referring to some of the other work that takes place in the railway industry, I have mentioned signal boxes previously and bored your Lordships with stories of my own involvement. I will try not to do so again on this occasion.

**Lord Berkeley:** Oh, go on!

**Lord Snape:** Well, all right, just this once I will be led astray.

One of the signal boxes in which I used to work, just outside Stockport, is still there—I will not go into the details of why, but it still operates as a mainline signal box. When it was necessary to modernise it, yet still retain the lever frame installed by the London and North Western Railway in 1888, locking fitters had to be brought in from India to do the work because we have largely lost these skills. If we could retain those skills through the heritage railway sector, that would be invaluable. This is probably an apocryphal story—fake news, as a distinguished visitor to our country might say—but I am told that after six months of modernising the signal boxes in my home town of Stockport, they were delighted to get back to India.

8 pm

**Lord Shutt of Greetland (LD):** My Lords, I must declare an interest as a member of the APPG who took part in the inquiry. I am delighted to follow what has been a united front and I certainly give credit to the noble Lord, Lord Faulkner of Worcester, for leading us through this debate and for all the work he has done with heritage railways so far. I wondered how far we would become tourists ourselves this evening, and we have been to the Talylyn Railway, the Gloucestershire Warwickshire Steam Railway, and railways in Helston, Telford, East Lancashire and Swanage. My noble friend gave us a tour de force on the Gloucestershire Warwickshire Steam Railway, including details of all the steam locomotives. As I said, we have had a united front.

The report produced is unlike many reports because although heritage railways are not averse to money—particularly not to accepting it for capital projects—the report is not about money. Heritage railways have an immense involvement in tourism, which makes this an interest for the Minister. Several are in conurbations but several others are quite remote. Some of those who are able to participate travel great distances to volunteer on heritage railways; for some, it is only a few miles because they are not far from the conurbations.

The report is about the involvement of young people and volunteering. Volunteers need renewing and it is important to catch them young. There is much in the report but our real concern is about the 1920 Act, which has become a serious impediment for heritage railways by discouraging young people, particularly 14 and 15 year-olds, from volunteering. We do not want another Beeching for a lack of sufficient volunteers. The lawyers have had a look at the Act and we can take another look. It was passed in 1920; at that time,

the school-leaving age was 14. So does the Act apply today, as if the school-leaving age was 14, or is it some later time? That may be an open point.

I should like to cite my own experience at this point. I had always been interested in railways and was one of the trainspotters. When I got involved with the Talylyn Railway, there were several people from the West Riding helping on it. I went as a 15 year-old to the Talylyn on several weekends. In particular, I went at that age on the Dolgoch slip when the earth had moved away from the track and it was unsafe for the whole line to be used. Groups of amateurs and volunteers turned up and I, at 15, was one of those who helped to build a great piece of concrete to keep that track in place. I enjoyed that group activity. I had no idea, by the way, that I was breaking the law as a 15 year-old taking part in that activity. However, it gave me the thought: was being a civil engineer in later life something I might do? I gave it serious thought. It did not happen, but it shows that it is one of the things that can happen for youngsters when they take part in such work. The work they do as a volunteer can be a precursor to work later in life.

I am pleased that a DCMS Minister will be responding to the debate. He may not like the idea of new primary legislation, although June and July 2019 would not be a bad time to give us the job of producing a new Act of Parliament. If that cannot be done, surely an order-making power can be rooted out so that we can get rid of this impediment, because even though people are saying, “No one’s going to bother about it if people of 14 and 15 do these things”, it quite clearly is an impediment. Who knows in litigious times whether it could be real? I hope the Minister can look at that.

It is interesting that the DCMS and the Minister deal with other leisure pursuits, particularly sport. Volunteering on heritage rail seems similar to being involved in heritage buildings, rambling, youth hostelling—all these things. There are many types of leisure-time activity. Some involve much physical activity, while others are quite sedentary, such as collecting stamps, coins and even railway tickets. I want to mention sporting activity. The document *2010 to 2015 Government Policy: Sports Participation* states:

“To make sure as many people as possible are playing sport, the government is ... funding ... to help community sports grow, including helping 14- to 25-year-olds to keep playing sport throughout their lives”.

I do not want to detract from people being involved in sport or from the Government supporting that, but I do not see why they should not put people who are interested in heritage railways in the same position as they put those who are excited about sport.

8.07 pm

**Lord Rosser (Lab):** My Lords, I add my congratulations to those already expressed to my noble friend Lord Faulkner of Worcester, both on securing this debate and on the comprehensive and informative report from the All-Party Parliamentary Group on Heritage Rail. My noble friend was instrumental in establishing the APPG and then in ensuring that it became an active and meaningful parliamentary group on behalf of heritage railways.

[LORD ROSSER]

As my noble friend said, he is also president of the Heritage Railway Association. He does not do things by halves. When he becomes involved—and he has had and continues to have a range of interests and campaigning issues—he becomes involved big time, and he has a very impressive success rate in achieving and delivering the desired objectives. He just does not do being a passenger or passive supporter. I say that with some personal knowledge as I have shared an office with my noble friend ever since I became a Member of this House 15 years ago.

I also congratulate all the other parliamentarians associated with the report, a number of whom have spoken today—indeed, all those who are Members of this House. In addition, as my noble friend Lord Grocott said, the work of Chris Austin, described in the APPG report as the clerk, cannot be underestimated. A retired senior career railwayman, Chris is involved with the West Somerset Heritage Railway and has co-authored with my noble friend Lord Faulkner of Worcester a couple of well-received books on recent railway history, covering all the political machinations prior to and since the Beeching cuts.

The railway preservation movement in Britain—and the world—had its beginnings in 1951, when a group of enthusiasts, led by, among others, the author and co-founder of the Inland Waterways Association, Tom Rolt, saved the narrow gauge Talyllyn Railway in mid-Wales from almost certain closure. The Talyllyn project was the first railway preservation scheme in the world, and since then the railway preservation movement in Britain has grown from strength to strength. The first standard gauge preserved railway, formerly operated by British Railways, started running as a private company in 1960: it was and is the Bluebell Railway in Sussex.

Today, the number of preserved or heritage railways in Britain runs well into three figures, thanks to the work of dedicated volunteers and paid staff who provide a memorable attraction for millions of visitors each year and a stimulus to the nation's tourist economy. I am pleased to have it confirmed tonight that, like other great shows, the Gloucestershire Warwickshire Steam Railway has finally made it to Broadway. There is even, I believe, one such preserved railway in the Channel Islands, on Alderney. Queen Victoria and Prince Albert visited in 1854 and became the first passengers on what was normally a freight-only line.

A moment ago I mentioned volunteers and paid staff. Heritage railways employ more than 3,000 full-time equivalent staff and some 22,000 volunteers. The majority of volunteers are in the 55-plus age group. The number of volunteers under 18 is around 5%, with the number of young female volunteers under 1%. About 800 volunteers are under 16. On this point, the APPG report says:

“The current number of young volunteers ... is not adequate to ensure the continuation of the present level of heritage railway activity in the long term”.

Last year marked the 50th anniversary of the end of main line steam on British Rail, so those under 60 years of age today will not have personal memories of our national railway network in the steam era. Heritage railways are concerned that, with the inevitable

loss over time of older employees and volunteers, engineering and other skills associated with the era of steam motive power are being and will be lost.

Attracting and training young volunteers, both male and female, is an issue that heritage railways are seeking to address, and some innovative and successful schemes have already been introduced. It is a less difficult development for the larger heritage railways to deliver than it is for smaller ones run entirely by volunteers. This issue is, of course, a key part of the APPG report that we are discussing. There is clear evidence, as my noble friend Lord Berkeley said, that the training, knowledge and experience acquired by young people who are volunteers on heritage railways can lead to regular employment and a career in the national railway system.

However, heritage railways need some help in delivering a number of the recommendations in the report, and one in particular. At the end of his interesting and informative speech, my noble friend Lord Faulkner of Worcester made reference, as did the APPG report and other speakers in this debate, to the Employment of Women, Young Persons, and Children Act 1920 and the significant constraint it places on recruiting young volunteers under 16. My noble friend asked the Government for some help in removing that constraint. The APPG report states that this constraint in legislation, which predates the creation and rapid development of working railway heritage lines and the large number of volunteers involved, not only prevents young volunteers under 16,

“benefiting from the experiences their parents and grandparents had, but risks losing them altogether to railways, as they find another outlet for their interests at a crucial stage in their lives and when exploring future employment”.

There have been previous debates on this specific point. One was in the other place on 15 March 2017, with earlier ones in this House on 7 December and 22 November 2016. On the latter date, the Minister, speaking for the Government, said he agreed that there should be no barriers to young people volunteering their time to support heritage railways. In the debate the following month, the Minister said that his officials had already made contact with the Office of Rail and Road and that the matter was now with that body.

In the debate in the other place on 15 March 2017, the government Minister said that, like the noble Lord the Minister, he too did not want there to be any barrier to young people volunteering their time on heritage railways or in other appropriate environments. The Commons Minister went on to say:

“There is a clear benefit to young people in being able to take part in such volunteering activities: it gives them practical and social skills, develops a sense of community and social engagement, and equips them with a formative degree of knowledge of safety and risk management”.

I am sure we are all agreed on that. The Commons Minister also referred to his department having spoken with the Office of Rail and Road, which had apparently confirmed that,

“there is a long-standing role for those under school leaving age to work on such systems in the heritage sector”.—[*Official Report*, Commons, 15/3/17; col. 482.]

The Commons Minister then referred to a series of presumably then pending meetings with the ORR.

However, subject to the Minister in his response persuading the House otherwise, not a lot seems to have happened on this issue over the last two and a quarter years. While the ORR under its current leadership may have no intention of enforcing the 1920 Act, a private third party might—as might the ORR under different leadership. In addition, the attitude of insurers to claims in this situation could become unhelpful, which adds further to the uncertainty and risks of recruiting volunteers under 16 for those managing a heritage railway.

On the face of it, the amount of discussion by government in the past seems to have been in inverse proportion to the amount of action by government now. I hope that the Minister, on behalf of the government departments involved, will be able to show that that is not the case and that a helpful response will be forthcoming to my noble friend Lord Faulkner of Worcester's request for government help on this issue—a request that of course is also one of the recommendations in the APPG report itself.

8.17 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, Lord Faulkner, for tabling this debate on such an interesting area of our national heritage. I can honestly say that I have greatly enjoyed this debate, because I have agreed with every speaker tonight. I thank all noble Lords for their contributions.

I enjoyed the stories of all noble Lords' local railways, particularly the description by the noble Lord, Lord Jones, of his local heritage railway and the engines that run on it, because that is my local heritage railway as well. Perhaps it is just that, as my daughter was delighted to tell me the other day, I was described on Twitter as “Lord of the nerds”. The noble Lord is definitely at the right-on end, not the right scruff end, of the trainspotter continuum.

I enjoyed the fact that the noble Lord, Lord Grocott, even managed to bring Brexit into this debate, but I am certainly not going down that branch line. He also talked about the variety of skills involved—as did many other noble Lords, including the noble Lord, Lord Snape. I absolutely agree with this. It is not just the specific skills to do with things such as boilers and engines but, as the noble Lord, Lord Grocott, outlined, many different skills—including timekeeping and timetabling, which he did not mention; in heritage railways, they tend to stick to the timetable—which give a structure to young people which they sometimes do not have. They can take those skills, as he said, on to employment. The noble Lord, Lord Snape, agreed from his experience of this, and I will certainly take back to the relevant department his remarks about the statutory consultation.

We should therefore celebrate what our railway heritage involves and ensure, as every noble Lord said, that the next generation is endowed with the skills and the passion to protect this legacy for future generations. I too record my thanks to the heritage rail APPG and especially to Chris Austin, who has also been mentioned.

Many noble Lords mentioned that heritage railways are major contributors to the visitor economy, attracting around 13 million visitors and bringing in an estimated £250 million to the economy annually—although the figure quoted by the noble Lord, Lord Faulkner, was £400 million. This has created an increasing amount of paid jobs as well as volunteering, with more than 3,000 people now employed on heritage railways. Of course that is dwarfed, as has been said, by the 22,000 wonderful volunteers who give their time and expertise for free to ensure the continued success of the heritage railways. However, many of them are retired, older people who will physically not be able to continue this work indefinitely, as much as they may wish to. We therefore have to ensure that we are enabling young people to take up the mantle to ensure the future sustainability of the heritage asset we have.

Therefore, as encouraged in the APPG report, I was pleased to see the introduction last year of a level 3 apprenticeship for heritage engineering technicians, which includes an option to acquire technical skills for the restoration and repair of locomotive steam engines. In only a few months since it was made available, 25 young people have elected to take up this apprenticeship, and I hope that many more will follow in their footsteps.

The APPG report outlines in its first recommendation the importance of involving young people in railways; the right reverend Prelate mentioned this, understandably, as did several other noble Lords. My department's long-term Taking Part survey supports this and shows that if people visit heritage sites while they are of school age, they are more likely to visit as adults. Heritage railway museums are doing well on that score. An impressive 45,000 education group visits were made to the National Railway Museum in York and Locomotion in Shildon in 2018-19—which are part of the Science Museum Group, which is the most-visited group of museums in the UK by education groups. Both those museums offer a schools programme with strong curriculum links and a focus on STEM skills. It would of course be remiss of me as a Culture Minister, especially in this debate, not to be quite clear that we also value the benefits of STEAM subjects.

The need to encourage and increase the uptake of STEM skills has been clearly identified and prioritised by government over the last few years. The Government's national Year of Engineering campaign in 2018 was designed to increase awareness and understanding among young people aged seven to 16 of what engineers do, and to showcase the many different routes into engineering careers. The National Railway Museum—which, as I said, is part of the DCMS-supported national museums network, the Science Museum Group—contributed to the Year of Engineering campaign through its Future Engineers initiative, a half-term programme which attracted nearly 30,000 visitors. Notably, 47% of the engineers involved in the Future Engineers programme were female. In light of the recommendation in the APPG report to “demystify” railway jargon to encourage young women's involvement, promoting positive female role models in the sector seems a helpful step in this direction.

[LORD ASHTON OF HYDE]

Virtually every noble Lord mentioned the Employment of Women, Young Persons and Children Act 1920, and it is apparent in the APPG report, as the noble Lords, Lord Faulkner of Worcester and Lord Berkeley, explained very clearly, that the interpretation of the Act presents a barrier to encouraging under-16s into volunteering opportunities on heritage railways, of which we all approve. Of course we want young people to have access to as broad a range of volunteering opportunities as possible. The noble Lord, Lord Rosser, referred to some remarks I made three years ago. We should strive to build on the momentum created by the Year of Engineering to encourage enthusiasm for heritage railways.

Of course, it is paramount that we ensure the health and safety of all young people in employment, whether in a paid or voluntary capacity, but that is not incompatible with young people volunteering on a heritage railway. There are clear and multiple benefits in doing so. Rather, we must ensure that appropriate safeguards are in place.

As I said, the noble Lord, Lord Rosser, referred to my comments. I said at the time that it was left for the Office of Rail and Road. He also referred to the comments of the Commons Minister. I should make the point that, very shortly after, he lost his seat, but I do not think it was connected with those remarks. I am encouraged to hear from noble Lords that a potential solution has been found to the issue through the use of a statutory instrument under the Health and Safety at Work etc. Act 1974. My officials are currently seeking confirmation from the Department for Work and Pensions, whose responsibility this is, together with the Health and Safety Executive. I confirm to the noble Lord that I am very happy to convene a meeting to take that forward with the Department for Transport and the DWP. Indeed, I warned the DWP Minister this morning that that might be a likely outcome.

The noble Lord, Lord Shutt, mentioned that the APPG report was almost unique in not mentioning money, but money is important. The UK's largest heritage funder, the National Lottery Heritage Fund, has awarded more than £163 million to more than 450 rail-related projects, such as the Boiler and Engineering Skills Training Trust to address disappearing skills, and to the Welsh Ffestiniog and Welsh Highland Railways for its heritage skills training programme.

Briefly, because I do not have very long, I wanted to mention coal, which the noble Lord, Lord Jones, mentioned. Obviously, we appreciate the need to reduce public health risks, but we are working carefully to consider how we might achieve a successful balance between enhancing environmental and public health protection and ensuring that the UK's heritage vehicle industry—and, indeed, heritage houses that burn coal in grates—continues to thrive. My officials are meeting counterparts at Defra next week to discuss this, and Defra Ministers have previously publicly stated:

“The proposals in the consultation on domestic burning would not prevent heritage railways purchasing the fuels they need”.

We will progress the issues around the 1920 Act, I hope, although, as I say, we must ensure that health and safety is right, so the DWP will be involved. I think that is a better way forward and more likely to succeed than primary legislation.

We fully recognise the enormous benefits that heritage railways bring to the UK's economy and tourism industry. We welcome the contributions of organisations such as the Heritage Railway Association and wish them every success. We stand ready to support them in securing the sustainability of this industry for future generations.

*House adjourned at 8.29 pm.*



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