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PARLIAMENTARY DEBATES
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HOUSE OF LORDS

OFFICIAL REPORT

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

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

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House of Lords

Monday 27 January 2020

2.30 pm

Prayers—read by the Lord Bishop of Gloucester.

Oaths and Affirmations

2.34 pm

Baroness Fritchie took the oath, and signed an undertaking to abide by the Code of Conduct.

Horizon 2020

Question

2.36 pm

Asked by ***Lord Bassam of Brighton***

To ask Her Majesty's Government what plans they have to continue participation in the Horizon 2020 programme beyond the Brexit transition period.

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy and Northern Ireland Office (Lord Duncan of Springbank) (Con): My Lords, the terms of the withdrawal agreement mean that the UK will continue to participate in EU programmes financed by the 2014-2020 multiannual financial framework until their closure. UK scientists, researchers and businesses can continue to participate in these programmes and receive EU grant funding until the end of 2020 and for the lifetime of individual projects.

Lord Bassam of Brighton (Lab): My Lords, I am slightly disappointed by the Minister's response. Given the Government's correct ambition to double R&D spend by 2027, in a post-Brexit UK would he agree that we should seek an association agreement with Horizon Europe? Given that the withdrawal agreement has been signed, can he outline the negotiation timetable for our participation in the Horizon programme so that universities can begin to plan research for 2021 and beyond?

Lord Duncan of Springbank: The noble Lord makes an interesting point. He will recall that when Horizon 2020 was being negotiated this time seven years ago a significant effort was made by the EU to cut the funding in order to put more money into agriculture. One of my colleagues, Vicky Ford, now an MP, managed to stop that cut being so significant. We are at that delicate stage now. Horizon Europe has not yet been determined and we cannot therefore be sure exactly what it will look like or how we can engage with it until the EU has completed those operations.

Lord Fox (LD): My Lords, the Minister has made clear the position on Horizon 2020, but the position on Horizon Europe is exercising the minds of researchers in this country. The proposed budget is about €100 billion. Can the Minister guarantee that, whether or not we are inside that deal, research organisations in this country which would have benefited will continue to benefit by at least as much as the share they would have got from Horizon Europe?

Lord Duncan of Springbank: The important thing to stress is that the EU has not yet determined Horizon Europe and the most important sticking point remains the budget. It is the Government's commitment to have an association agreement to ensure that scientists and all within that area going forward are able to participate fully and are able to get full value for money, just as the EU will get full value from us through such an association agreement.

Lord Lansley (Con): My Lords, my noble friend may be anticipating that Horizon Europe's budget, as it is discussed in the year ahead of us, may well be less than €100 billion. There are many stories suggesting that it will be in the region of €88 billion to €90 billion. The question then is whether in the course of the months ahead we should be seeking participation in Horizon Europe on the basis that the funds that we provide—I think we have provided about 11% of the funds of Horizon 2020—would be additional to what the European Union commits from its own budget, thereby getting Horizon Europe potentially back to €100 billion in total.

Lord Duncan of Springbank: My noble friend is absolutely right. We have been a vital participant in the Horizon programmes and their predecessor framework programmes. There is no doubt that going forward our participation will make them work better, and the negotiations must therefore deliver against that objective.

Lord Hannay of Chiswick (CB): My Lords, will the Minister give a really clear assurance that, when the negotiations on the next relationship between the UK and the EU start in March, the British Government will put on the table their desire to co-operate with the Horizon programme and their proposals for doing so? The new programme may not yet have been funded but you can bet it has been negotiated.

Lord Duncan of Springbank: The noble Lord is absolutely right. We have been very clear thus far that we wish to participate going forward. The nature of the association agreement will be subject to those ongoing negotiations, but for scientists on both sides of the channel and of the Irish Sea, our collaboration is as vital now as it has ever been.

Lord Watts (Lab): My Lords, Britain pays about 11% into this programme but it gets a lot more out. How much extra benefit is derived from the extra resources that we get from Europe?

Lord Duncan of Springbank: The noble Lord is right. The fund is based on excellence. British scientists are excellent and we therefore get significant benefit from the programme. We collaborate at the highest possible level and are able to deliver science at the highest possible level, and that is therefore a benefit to our university system and more broadly. It is very

[Lord Duncan of Springbank]
difficult to quantify but I do not think that there is a single scientist in our universities who would not applaud and recognise that.

Baroness Garden of Frognal (LD): My Lords, British scientists are indeed excellent but that is partly because they can collaborate with European scientists. What assurances can the noble Lord give that those collaborations will continue after we leave the EU?

Lord Duncan of Springbank: It is difficult to comment on specific collaborations but I stress that British scientists and academics and our university system are all excellent. Collaboration is therefore of mutual benefit to both sides of this issue.

Baroness Kramer (LD): My Lords, to the best of my understanding, British scientists and institutions frequently lead on these collaborations. There has been a significant concern that, although those institutions might be allowed to participate in the future, their opportunities to lead will be greatly diminished. That means that leading scientists who always want to be part of the lead group will seek other opportunities.

Lord Duncan of Springbank: I always believe that those best equipped to lead should lead, whether that be within the EU or across the wider globe. There has been a decline in our participation, and that is a measure of what we have been going through of late, but the excellence remains and the leadership should remain with the excellent.

Lord Robathan (Con): Has my noble friend noticed that a lot of the perfectly reasonable questions that he has addressed have been trying to second-guess what will happen in the negotiations. Surely, now that we are leaving the EU, we will be able to co-operate with our friends and neighbours across the channel on all these programmes, including Horizon.

Lord Duncan of Springbank: This Government intend to continue with an association agreement. Science is vital and it must therefore be worked on with the best possible collaboration. That is our ambition. It is what we will seek to deliver in the negotiations and we will be judged accordingly.

Lord Grocott (Lab): Quite rightly, we hear a lot about the importance of collaboration with our European friends. I have not done the calculation but there must be about 150 countries that are not within the European Union. How do we manage to collaborate on scientific and other matters with those countries?

Lord Duncan of Springbank: The noble Lord is correct. In a number of areas the UK is a global leader; in others it is the US. We have a number of the leading journals on science and other subjects. In terms of excellence, more universities in the top 20 are in Scotland than in the rest of the EU. We are an excellent nation and we have excellent universities, and we are collaborating across a wide range of the globe.

Lord Hunt of Kings Heath (Lab): My Lords, one reason for our strong science base is our life sciences. The Minister will know that part of that depends on the interrelationship with the pharmaceutical industry and the investment that it puts into R&D. If we are to be non-aligned with the EU, many new drug developments in the UK will be at risk, because no company will want a licence in the UK before obtaining a European licence. Is that being factored into the discussions in relation to the European Medicines Agency and our own MHRA?

Lord Duncan of Springbank: Yes.

NHS: Children's Emergency Beds
Question

2.44 pm

*Asked by **Baroness Donaghy***

To ask Her Majesty's Government what assessment they have made of the availability of children's emergency beds in the NHS in England; and whether they have a strategy for addressing any shortfall.

Lord Bethell (Con): My Lords, in November 2019, 321 paediatric critical care beds were available in England, of which 268 were occupied, giving an occupancy rate of 83.5%. Management of these sensitive, difficult-to-manage services is a complicated affair. That is why NHS England undertook a review of paediatric critical care services, which advocated that hospitals in each region need to work together to co-ordinate capacity and resources.

Baroness Donaghy (Lab): I thank the Minister for his Answer, but he did not mention the children with mental health issues who have been bussed hundreds of miles or the extremely sick children who have been put on main wards to make way for even sicker children in the paediatric specialist units. I do not think that most professionals even trust the figure the Minister has given; the professional organisations are saying that it was nearer 100% over December. However, I am not going to trade figures backwards and forwards with the Minister. I am just going to ask him: how many more times do the professional organisations of paediatric specialists and A&E doctors have to say that the system is at breaking point before the Government take immediate action?

Lord Bethell: I thank the noble Baroness for her question and for the detailed article that she wrote for PoliticsHome giving the thinking behind it. In it, serious questions are asked by the Faculty of Intensive Care Medicine and the president of the Paediatric Intensive Care Society. The data presented by the NHS is prepared by front-line clinicians and collated by CCGs, and the adulteration or misrepresentation of those figures is an offence both to the values of the NHS and in law. We take the figures very seriously.

Baroness Gardner of Parkes (Con): My Lords, this matter has been raised before in the House, but I am asking whether anything has been done about it. In Manchester, there were many children wanting operations under general anaesthesia but all the slots were already taken. Has anything been done to change that? I wrote to the Mayor of Manchester but did not even get an acknowledgment, so I would be grateful for an answer.

Lord Bethell: The specific example cited by my noble friend is not one that I am able to comment on, but she raises an important question about resources for paediatric care. This Government are putting considerable resources into both capital and spending. Paediatric care is prioritised over other areas of care and we take this matter very seriously.

Baroness Thornton (Lab): My Lords, I go back to what the Minister said in response to my noble friend. It sounded to me as if he was suggesting that the faculties and Royal Colleges had somehow falsified figures. That is a very serious accusation so I would like him to clarify that and, if that is what the Government think, what they are going to do about it.

Secondly, one of the reasons for the pressure on beds is staff shortages; many units were limiting the number of patients that they could treat to fewer than their physical bed space. Does the Minister recognise that dilemma, and what action are the Government taking urgently to address the workforce crisis in paediatric medicine?

Lord Bethell: The noble Baroness asked about the statistics. The anecdotes put forward by the Faculty of Intensive Care Medicine and the president of the Paediatric Intensive Care Society are perfectly valid. They are reasonable stories. The question put was about whether NHS statistics are being falsified. These are very serious suggestions and questions. I reassure the House that the statistics put together by the NHS are blue-chip and very much ones that we are proud of.

Baroness Brinton (LD): My Lords, the Nuffield Trust report of December 2017, *Admissions of inequality: emergency hospital use for children and young people*, noted that children and young people from the most deprived areas are consistently more likely to go to A&E and need emergency hospital treatment. In fact, it specifically said that if unplanned admissions were at the level of the least deprived in the country, 244,000 fewer paediatric emergency hospital admissions would have been needed, saving the NHS £245 million. Given that the Health and Social Care Act 2012 makes reducing health inequalities in access and outcomes an explicit duty for the Secretary of State, can the Minister tell us exactly what the Secretary of State is planning to do to continue to lower this inequality?

Lord Bethell: The noble Baroness touches on an incredibly important point. Undoubtedly, accident and emergency services are suffering a big spike in attendance by children and young people. I travelled to 20 accident and emergency wards in December and saw for myself the long queues of children. Clearly, something needs to be done to guide children away from accident and emergency. That is why this Government are doing an enormous amount to improve primary care services by investing in the 111 service and treatment-in-a-day services, for example, which can move people from A&E to create space for those in the most need.

Baroness Blackstone (Ind Lab): My Lords, I pick up on my noble friend's question about staff shortages, to which the Minister did not reply. For many years now, there has been a serious shortage of paediatric nurses with the specialist skills needed to work in ICU. However many of these units we have around the country, they will not be very effective if we do not have the skilled staff to man them. What are the Government doing to fill these places where there are shortages?

Lord Bethell: The Government are investing in 50,000 new nurses, many of whom will be trained for exactly the kind of services that the noble Baroness described. In particular, mental health investment is a big focus for the Government, with plans to have spent £12.5 billion on mental health care in 2018-19. Our NHS funding Bill, which will receive its Second Reading in the Commons today, will explain exactly how much money will be spent.

Schools: Excluded Children

Question

2.51 pm

Asked by ***Baroness Meacher***

To ask Her Majesty's Government what plans they have to improve support for children excluded from mainstream schools.

The Parliamentary Under-Secretary of State, Department for Education (Lord Agnew of Oulton) (Con): My Lords, every child in this country should have the opportunity to receive a decent education. This includes children in alternative provision, many of whom are vulnerable or disadvantaged. To help achieve this, we will expand alternative provision schools and improve their quality so that their pupils receive an education on a par with their mainstream peers. Special and alternative provision will continue to be an integral part of the free schools programme.

Baroness Meacher (CB): I thank the Minister for his reply. However, exclusions from mainstream education have increased dramatically over recent years. County lines gangs and drug gangs generally target these vulnerable children as they emerge from their pupil referral units. They are sitting ducks for those criminals. Will the Minister initiate a review within government of the urgent need to provide professional mental health care and help with communication problems for children identified as at risk of exclusion? The important point is to keep children in mainstream education while addressing their often severe mental health and other problems. This will cost money, but it will be a fraction of the hundreds of millions which

[Baroness Meacher]
would otherwise be spent on police, courts and, most particularly, prisons, as these children pursue a lifetime of drug-related crime.

Lord Agnew of Oulton: My Lords, to put things in perspective, the level of exclusion has remained broadly stable over the last 15 years at 0.1%. However, I take on board the noble Baroness's comments. More needs to be done in mainstream education, which is why we are announcing and rolling out our behaviour hubs to try to stop children being excluded. The quality of alternative provision also needs to be improved continuously to deal with some of the issues that she raised.

Lord Storey (LD): My Lords, as the Minister knows, the problem is that many excluded pupils go into unregistered alternative provision. In many cases, this does not have simple things such as a register or safeguarding procedures. One of the reasons this happens is because local authorities, which are responsible for this, choose unregistered provision because it is cheaper. They say that they have a quality assurance regime. Will the Minister liaise with Ofsted and the Local Government Association to make sure that this quality assurance regime complies? Finally, where are we up to on a register for all children who go missing?

Lord Agnew of Oulton: My Lords, the noble Lord raises a good point on the link-up between the Local Government Association and Ofsted. I certainly recommend that the Local Government Association write to HMCI to outline the issues that the noble Lord has raised. There should be a closer join-up. Essentially, such a school is illegal if it has more than five pupils and is teaching a full curriculum—that is the bottom line of an unregistered setting. If there are failures in the two linking up, that needs to be improved. We have announced a broader review of the whole SEND system, on which we will provide details soon.

Lord Baker of Dorking (Con): My Lords, far too many pupils are expelled from our schools today and it is a disgrace. Teachers want to get rid of their most difficult children, particularly to improve their exam results. Should not the Government look at the whole principle of exclusion and see whether it should be more strictly monitored? The schools that I promote—university technical colleges—very rarely use exclusion. We work with disengaged and difficult children; we train them properly so that they can have a better life and get a job.

Lord Agnew of Oulton: I acknowledge the great work that my noble friend is doing with UTCs, and he is right that they have attracted an excessive number of children who are more broadly off-rolled rather than excluded. As I said in answer to an earlier question, the level of exclusion has not spiked particularly; the more pernicious practice is off-rolling. In the new inspection framework that Ofsted rolled out in September, much more focus goes on to that and a school's rating can be adversely affected if evidence of it is found.

Lord Watson of Invergowrie (Lab): I was pleased to hear the Minister support the point made by the noble Lord, Lord Baker. Further to that point, children with special educational needs and disability account for almost half of permanent exclusions and so-called off-rolling, often in situations where parents are encouraged to remove their child from school for reasons more beneficial to the school than to the pupil. Last year, the Government commissioned the Timpson review, which contained the recommendation that the Department for Education should ensure that schools were held responsible for children whom they excluded and accountable for their educational achievements thereafter. The Government accepted all 30 of the Timpson recommendations. What steps have been taken to ensure that head teachers cannot simply wash their hands of children whom they take off the school roll?

Lord Agnew of Oulton: The noble Lord raises a very good point and is correct that the Timpson review made a number of recommendations that we accepted. Work is ongoing to look at the feasibility of its implementation, and we will make announcements on that shortly. On an expelled child being rated back to the school from which he or she was removed, in theory it is a very good idea, but we need to be careful because it will obviously depend on the quality of the provision where he or she was sent, and it would not be right for the referring school to be penalised. More active thinking is going on with our larger academy trusts about creating their own APs so that they own the problem. In the longer term, this is probably a more useful solution, as it means that the system is better joined up.

Baroness Butler-Sloss (CB): My Lords, some of these children have mental health problems. What are the Government doing about delays with CAMHS?

Lord Agnew of Oulton: The noble and learned Baroness is right that mental health is a more prevalent issue among these vulnerable children. In our Green Paper *Transforming Children and Young People's Mental Health* published in December 2017, we made various commitments, including the creation of mental health support teams and 25 trailblazer sites delivering 59 mental health support teams by December 2018. Those teams are expected to complete their training by the middle of this year and will be fully operational following it. A further 123 mental health support teams will be introduced in 57 sites over the next 24 months.

Agriculture Bill: Food Production

Question

2.59 pm

Asked by ***The Lord Bishop of St Albans***

To ask Her Majesty's Government whether food production is included in the definition of "public good" contained in the Agriculture Bill.

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Gardiner of Kimble) (Con): My Lords, I declare my farming interests, as set out in the register. The Agriculture Bill includes powers to give financial assistance to farmers based on public money for public goods. These are goods and services not provided by the market. Clause 1(4) states:

"In framing any financial assistance scheme, the Secretary of State must have regard to the need to encourage the production of food by producers in England and its production by them in an environmentally sustainable way."

The Lord Bishop of St Albans: My Lords, I thank the Minister for his reply. A prime duty of government is to ensure that there is enough food to feed the population. Yet one has only to think about the impact of things such as coronavirus, and the immediate ban on the movement of live animals, to show how vulnerable we are, not least when this country is only 60% self-sufficient in food. Will the Minister assure the House that the Agriculture Bill will maximise the level of food production and food security for the country's future?

Lord Gardiner of Kimble: My Lords, Clause 17 provides a duty to report to Parliament on food security. This country clearly has a high degree of food security and we rely on a supply of healthy and homegrown produce. The whole point of the Agriculture Bill is to ensure that we have efficient farming, good-quality produce and an improved environment—those things go hand in hand.

Baroness Jones of Whitchurch (Lab): My Lords, this matters because "public goods" in the Agriculture Bill refers to the activities that will receive government funding or financial assistance. Despite the noble Lord's warm words, where does the production of healthy, local food fit into the Government's financial assistance priorities? The detail of that is in a completely different part of the Bill from the one that lists what will get financial assistance. This is obviously an important distinction.

Lord Gardiner of Kimble: My Lords, without being pedantic, Clause 1 is about the Secretary of State's powers to give financial assistance. It sets out 10 items of public good for which there is public money because there is not a market. However, as I said, Clause 1(4) refers to food production. Other elements of the Bill involve innovation, agritech and R&D, all of which will increase productivity and help farmers to produce food. The first section is about rewarding farmers for things they are already doing, and which we want them to do even more, but for which there is no market as such.

Baroness McIntosh of Pickering (Con): My Lords, will my noble friend ensure that livestock production is given priority within the definition of food production? Will he assure the House, today, that the Government are not minded to introduce a ban on the trade in live animals? It is a small trade, but it is highly regulated and extremely important to maintaining the price, particularly of spring lambs and suckler cows.

Lord Gardiner of Kimble: My Lords, we are extremely concerned about the long journeys that live animals are undertaking, which is why we are considering these matters very carefully. We understand that farmers in the uplands and elsewhere are important to the livestock sector, but we need to do better on animal welfare and these very long journeys concern us.

Baroness Jones of Moulsecoomb (GP): My Lords, will the Minister undertake to listen to this House? The Agriculture Bill is a good start to a greener system of farming, but noble Lords will offer a lot of advice and improvement on it. Will the noble Lord undertake to listen to the House and ensure that the Government do not just whip out all our amendments and send the Bill back unamended?

Lord Gardiner of Kimble: I hope I can answer that by saying that there are already differences between the earlier Agriculture Bill and the one that has been introduced. That is because of scrutiny in the other place and stakeholder concerns. There have already been considerable improvements on food security, soil quality, animal traceability and regulation of fertiliser and organics. I will of course listen to noble Lords and look forward to working with them on the Bill—if it is deemed that I should—at a later date.

Baroness Bakewell of Hardington Mandeville (LD): My Lords, the Agriculture Bill is important in the process of Brexit and it is encouraging that it now mentions food security. While the Bill provides for a seven-year transition for agriculture towards this new payment system, does the Minister agree that ending uncertainty for farmers long before 2027 is essential, for their businesses and their mental health?

Lord Gardiner of Kimble: We take this very seriously. I know from my own experience the stresses and strains of the agricultural sector and, indeed, the dangers. I absolutely understand that and that is why we are having a transition, over seven years, from direct payments to a new system. We will bring in tests and trials of the environmental land management scheme and by the end of 2024 we will be ready to launch a national environmental land management scheme in 2025. This is precisely to ensure that there is a sensible transition so that all farmers are clear about what they can do to use the new system to the advantage of the environment and of food production.

Lord West of Spithead (Lab): My Lords, has the Civil Contingencies Secretariat put work in hand to ensure provision of food should there be a catastrophic cyber or cost-type attack on this nation? It started some work on the distribution of food to centres of population should such a thing happen, but I am not sure whether it was continued.

Lord Gardiner of Kimble: My Lords, systems are already in place to ensure that in all potential crises and disasters. It is clearly a key factor, whether it involves medicine, food or veterinary medicine. All are important parts of contingencies that it is our responsibility to take.

The Earl of Erroll (CB): Will the Government take into account, in international trade agreements that will be coming up, the fact that British farmers probably maintain much higher standards on the environment, livestock and farming as a whole than do our competitors abroad?

Lord Gardiner of Kimble: My Lords, we are committed to UK standards not being watered down in trade negotiations with other countries. I should say that treaties cannot change domestic law. Any changes to UK law required to implement a treaty will have to pass through Parliament. That is an important factor for us to remember.

Traffic Management (Amendment) Bill [HL]

First Reading

3.06 pm

A Bill to make provision in relation to the civil enforcement of speeding contraventions.

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

Marriage and Civil Partnership (Minimum Age) Bill [HL]

First Reading

3.07 pm

A Bill to revoke parental or judicial consent which permits the marriage or civil partnership of a child and to criminalise child marriage or civil partnership under the age of 18; and for connected purposes.

The Bill was introduced by Baroness Hussein-Ece, read a first time and ordered to be printed.

Traffic Management (Approved Devices) Bill [HL]

First Reading

3.07 pm

A Bill to make provision to enable the civil enforcement of moving traffic contraventions using approved devices.

The Bill was introduced by Lord Brooke of Alverthorpe (on behalf of Baroness Massey of Darwen), read a first time and ordered to be printed.

Department of Health (Northern Ireland) Bill [HL]

First Reading

3.08 pm

A Bill to provide for the functions exercised by the Northern Ireland Department of Health to be exercised by the Secretary of State in the absence of a Northern Ireland Executive.

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

Regulation of Political Opinion Polling Bill [HL]

First Reading

3.08 pm

A Bill to make provision for the regulation of political opinion polling in the United Kingdom; and for connected purposes.

The Bill was introduced by Lord Kennedy of Southwark (on behalf of Lord Foulkes of Cumnock), read a first time and ordered to be printed.

Air Traffic Management and Unmanned Aircraft Bill [HL]

Second Reading

3.09 pm

Moved by ***Baroness Vere of Norbiton***

That the Bill be read a second time.

The Parliamentary Under-Secretary of State, Department for Transport (Baroness Vere of Norbiton) (Con): My Lords, aviation has long been at the heart of the United Kingdom's economic success. This is an industry that contributes at least £22 billion to the UK economy, along with over 230,000 jobs, and it is growing to meet rising demand. Passenger numbers have increased for seven consecutive years, and it is estimated that UK passenger traffic could increase from 292 million passengers in 2018 to 435 million by 2050. A thriving aviation sector brings more visitors to the UK, as well as increased trade and business investment. Our regional airports and the connections, jobs and investment they provide spread these benefits across the country.

Airspace is key, but it is a largely invisible component of the aviation sector. UK airspace is the gateway between Europe and North America, the world's busiest intercontinental air corridor. Its efficient operation is crucial for managing international air traffic across the Atlantic. It is also some of the most complex airspace in the world, and it has not undergone significant change since the 1950s. It is now struggling to keep pace with the growing demand for aviation and to take advantage of the capability of today's modern aircraft.

More and more traffic is being squeezed into the same congested areas of airspace. This leads to inefficient flight paths, an increase in carbon emissions, significant passenger delays and poor resilience to disruption, caused by either bad weather or technical difficulties. Without change, the situation will deteriorate further in the coming years. The skies over the UK will continue to get busier as the aviation industry expands and incorporates new types of airspace users such as unmanned aircraft and commercial spaceflight.

The DfT published the strategic case for airspace modernisation in February 2017. It estimated that by 2030 one in three flights arriving or leaving an airport is likely to be delayed by an average of 30 minutes. That is 72 times higher than in 2015 and would be very damaging for passengers, businesses, the economy, communities and the environment.

Our airspace is also increasingly being used by unmanned aircraft, often referred to as drones. There are exciting benefits to society of embracing unmanned aircraft technology. Our police, fire, and search and rescue services all regularly use unmanned aircraft in emergency situations to help save lives. They are also being used to inspect and maintain important national infrastructure, reducing the risk of accidents and driving productivity and efficiency.

Unmanned aircraft technology is expected to bring significant benefits to the UK's economy in the coming years. However, the careless, inconsiderate and malicious use of drones and other unmanned aircraft poses a safety risk to others. The number of incidents of manned aircraft encountering unmanned aircraft increased from just six in 2014 to 126 in 2018. To maintain the UK's position as a world leader in aviation, we must: ensure that regulations support sustainable growth; make journeys quicker, quieter and cleaner; and ensure that new technologies such as unmanned aircraft are used safely.

That is why the Government have introduced the Air Traffic Management and Unmanned Aircraft Bill, which is set out in three parts. The first modernises our airspace, making journeys quicker, quieter and cleaner; the second modernises the UK's air traffic services, ensuring that aircraft can move safely and efficiently through our skies; the third improves public safety, through greater police enforcement powers to ensure safe and lawful use of unmanned aircraft.

I will now provide more detail on each of the three parts of the Bill, beginning with Part 1: airspace change proposals. For those who may be less familiar with the concept of airspace, it is the volume of space above ground level, basically extending as far as an aircraft can fly. An airspace change proposal relates to changes to managed airspace and the flight procedures and air traffic control procedures used within it. A programme of airspace modernisation is already under way to redesign the UK's flightpaths to deliver quicker, quieter and cleaner journeys, and more capacity for the benefit of those who use and are affected by UK airspace. It is being delivered by the aviation industry, and is co-sponsored by the independent regulator, the Civil Aviation Authority—the CAA—and the Government.

The UK's airspace is highly interdependent, particularly over the south-east region. For airspace change to take place, airports and NATS—formerly National Air Traffic Services—have to work together to take into account the needs of neighbouring airports, as well as their own. If one airport pulls out of the programme, that could delay the whole modernisation programme, which in itself is a very complex undertaking. Should this situation occur, neither the Government nor the CAA currently has the powers to guarantee that airspace change is taken forward.

The Government are working closely with the industry to encourage voluntary participation. However, if an airport is unwilling to participate voluntarily, the new powers in the Bill will enable the Secretary of State to compel airports to bring forward airspace change proposals, ultimately ensuring that the aviation modernisation programme is delivered. This includes airspace changes that direct airports to release underused controlled airspace so that general aviation users can better access it.

On Part 2 of the Bill, air traffic services, it has been 18 years since the establishment of an economic regulatory regime for the provision of en-route air traffic control services. These services are provided by NATS (En Route) plc, helpfully referred to as NERL, which is regulated by the CAA. During those 18 years, the technological and economic landscape of air traffic services has changed rapidly. This has led to growing pressure to improve efficiency and resilience.

The current process for modifying the en-route air traffic services licence is inefficient and impractical. The CAA can make changes to a licence only with the consent of NERL, which is the licence holder, or via a determination by the Competition and Markets Authority—the CMA. This means that important changes to the licence could be delayed or may fail to be implemented at all. The licensing framework needs to be modernised to ensure that it remains fit for purpose, continues to build on the UK's excellent safety record, satisfies demand, and continues to be resilient.

The provisions in the Bill will allow the CAA to take a more direct and independent approach, and make the licence changes it considers necessary to protect consumers and respond to changes in air traffic services over time. However, it is important to note that the licence holder—currently NERL—will still retain the right to appeal to the CMA against any changes if it so wishes.

The Bill also updates the enforcement and penalties regime to ensure that the CAA can effectively regulate NERL in the interests of users and consumers. This includes the introduction of more proportionate sanctions, bringing the regulatory regime into line with other modern regulatory systems. I draw the attention of your Lordships' House to some minor technical government amendments concerning paragraphs 11, 12 and 13 of new Schedule B1 to the Transport Act 2000, which is contained in Schedule 5 to the Bill. These are purely technical amendments, but they aid the CAA's ability effectively to manage NERL's licence through the use of penalties.

On Part 3 of the Bill, unmanned aircraft—often known as drones—advances in technology have resulted in unmanned aircraft becoming increasingly available,

[Baroness Vere of Norbiton]

capable, and easy to use. This has led to an increase in use for commercial purposes and has given a wider range of leisure users and hobbyists greater enjoyment. We are already starting to see the benefits of the commercial use of unmanned aircraft in areas such as surveying and search and rescue. As the technology continues to evolve, unmanned aircraft will be able to fly faster, for longer and at higher altitudes, unlocking the potential for new types of operation.

However, as this technology develops, so do the risks. Careless and inconsiderate users can cause a nuisance and pose a safety risk to others. There are also those who would deliberately use unmanned aircraft for criminal acts, whether to facilitate organised crime, disrupt our national infrastructure or, in extreme cases, commit acts of terrorism.

The drone incursions at Gatwick Airport in December 2018 resulted in major disruption, flight cancellations and significant economic damage, highlighting how significant the impact of malicious drone use can be. But this new legislation is not just about keeping our airports safe. The provisions in the Bill will help protect our prisons, civil nuclear sites and other critical infrastructure, which are vulnerable to the malicious use of unmanned aircraft. Drones are being used to smuggle drugs, weapons, mobile phones and tobacco into prisons. In 2018, there were 168 incidents of drones being used to smuggle items into prison. This places prisoners and prison staff at risk and undermines rehabilitation. In addition, between January 2017 and September 2019, eight civil nuclear sites across the UK reported 22 separate incidents involving drones.

The Government are committed to harnessing the positive impacts of unmanned aircraft and supporting the industry to grow, but this must be done in a way that protects the safety and security of people, other aircraft and sensitive sites. I want to be clear that these risks to safety and security apply to all unmanned aircraft, be they drones, model aircraft or other types of unmanned aircraft, which might become more widely used in the future.

The Government recognise that the majority of unmanned aircraft users already fly responsibly and within the law, and I am acutely aware of, and support, the strong safety culture fostered by the majority of model aircraft flyers and clubs. However, there have been instances of model aircraft being flown illegally. For example, in January 2019, just one month after the Gatwick incursion, a model flyer was convicted of flying a small unmanned aircraft without permission within the flight restriction zone around Heathrow Airport. It is essential that the regulatory framework in the UK reflects the reality of the risk posed by all users of unmanned aircraft.

As the misuse of unmanned aircraft has increased, challenges have emerged in pursuing effective enforcement and investigation. Work with the National Police Chiefs' Council, Police Scotland and the Police Service of Northern Ireland has established that there are gaps in the powers available for police officers to investigate and prosecute those suspected of breaking the law.

For instance, there is no existing power that permits a constable to require a person to ground an unmanned aircraft, to stop and search a person, or to enter and search premises under warrant, if a constable believes that a relevant offence involving an unmanned aircraft is about to be, is in the process of being or has been committed. Take the following example: a remote pilot is suspected of breaching the Air Navigation Order by flying in a congested area. However, the police are unable to catch the drone pilot in the act. By the time the police officer arrives at the scene, the drone pilot has already put his drone away in the car. The police constable has no powers to search the car to find the drone and therefore no action can be taken.

The provisions in the Bill will address these operational gaps. The police will be given the necessary powers to require an unmanned aircraft to be grounded, to stop and search persons and to enter and search premises under warrant. They will also be given powers to: require a person to produce documentation or evidence of the permissions or exemptions required under the ANO 2016, such as permission to fly in the flight-restricted zone of a protected aerodrome; require a person to produce evidence of remote pilot competency and operator registration, which became a legal requirement for those wishing to fly small unmanned aircraft on 30 November 2019; and issue a fixed penalty notice for less serious unmanned aircraft-related offences. The Bill will also enable interference with property or wireless telegraphy in order to prevent or detect certain offences involving the unlawful use of unmanned aircraft.

The Government are determined to ensure that unmanned aircraft are used safely and securely, and to provide the right platform to harness the wide-ranging opportunities and benefits they can bring. It is not our intention to make it difficult to realise the potential of this technology, and for those who operate an aircraft responsibly and safely, they should not be an impediment. In fact, those who follow the rules have much to gain from the creation of safer and more secure conditions for all unmanned aircraft operations.

The Bill is critical for ensuring the efficient management and safe use of our skies. It will enable the UK to maintain its position as a world leader in aviation, ensuring that the legal framework keeps pace with new technology and supports sustainable growth in the aviation sector. I beg to move.

3.25 pm

Lord Tunnicliffe (Lab): My Lords, I thank the Minister for her comprehensive introduction to the Bill. I also declare a number of pecuniary interests, as a former airline pilot and the occasional user of uncontrolled airspace. The Bill deals with the important issues of air space, air traffic and unmanned aerial vehicles. Technology in the aviation sector has developed at an incredible pace and it is right for the Government to introduce legislation to accommodate this.

My party welcomed the premise behind the Bill when it was first announced, pertinently, in the months following the Gatwick incident in December 2018, but it is regrettable that there has been an immense delay

in bringing it forward. With it now having been over a year since it was first announced, and with further months before it comes into force, I fear that offences may have been committed in the meantime.

Much of the substance of this legislation derives from consultation, and, while this is welcome, it is notable that it appears that it all took place prior to the 2018 Gatwick event. The incident highlighted the problem at hand, and it is important that the Government listen to those who responded, in particular on why the issue took so long to resolve. Can the Minister confirm whether there has been any consultation on the legislation with those who were involved in the 2018 Gatwick incident?

Moving on to the substance of the Bill, I am sure that the whole House will agree with the need to modernise our airspace. The difficulty comes when we seek to define what it means to modernise. While there is an appeal for flights to be faster and quieter, they must above all be greener and cleaner. Indeed, the Minister referred to this in her introductory speech, which outlined the massive increase in aviation activity that she foresees over the next 30 years. These ideals are not contradictory, but the latter—greener and cleaner—must take priority. I hope that the Government will spell out how they will ensure that growth is sustainable, and their intentions for the future offset of emissions.

The Government's approach to realising their ambition is to give a greater voice to airports to decide on the changes they need to airspace. I would welcome an explanation of why this approach has been chosen, rather than one that is wholly nationally co-ordinated. I understand that concerns have been raised by smaller aerodromes which feel that their voices may become dwarfed. Indeed, it is not clear to me whether all stakeholders have been fully recognised and by what mechanism their concerns are to be addressed. This is partly because I now appreciate that I do not fully understand the process. I hope that the Minister will facilitate appropriate access to the responsible officials to address the gaps in my knowledge and that of other interested Peers, and hence avoid tedious probing amendments.

Much of the Bill can be summarised as the transferring of powers to the police, the CAA and the Secretary of State. It may be useful for the House to explore at later stages the limit of these powers and the extent to which both institutions are prepared. For example, the Bill provides powers for the police to stop and search individuals who may be flying drones illegally and provides powers for the CAA to require a person to provide information. Can the Government detail whether they intend to collect data on the demographics of individuals whom the powers have been exercised against? Where new powers will require resources, I hope that the Government will explain to what degree they will prepare the institutions.

The Bill will give additional responsibilities to the CAA, but it is as yet unclear whether any additional funding will be given. The CAA has sustained repeated funding cuts under government. As a result, a 2017 survey found that fewer than 10% of employees believed that they had time to undertake important safety activities to an acceptable standard. The CAA, and indeed the police, must be resourced to cope with their new powers and responsibilities. In particular, as regards the new powers for the Secretary of State, I hope that the Government can detail how they will provide for transparency and accountability. Further, I hope that the Government will set out their rationale for the nine Henry VIII powers among the 28 delegated powers.

Finally, I will raise a concern over the possible limitations of this Bill. The technology surrounding drones has developed at an incredible rate, and ownership continues to rise. The Government must keep abreast of the changing environment and respond accordingly. It is possible that this legislation already falls behind recent developments. It seems to ignore the dangers that could arise from drones that fly beyond lines of sight. Ultimately, this legislation must be prepared to deal with the drone technology of the future, and I fear that at present it does not.

The Government are right to legislate for the better management of UK airspace. It is only regrettable that this has not been debated sooner. The principle behind this Bill is one we can all agree on. On that basis, I see no reason to oppose this legislation, although I hope that, as amendments are laid at a later stage, the Government will recognise the limits of the Bill and work with the whole House to address concerns.

3.31 pm

Lord McNally (LD): My Lords, my noble friend Lady Randerson was unavoidably delayed, although I am pleased that she is now with us. Because of that late arrival, she will not take part in Second Reading and I will open for these Benches on this Bill. Thankfully, she has promised to do the heavy lifting when we get to the Committee and Report stages. She has already indicated to the Minister our general support for the Bill. In Committee we will probe the process of consultation in relation to airspace modernisation and suggest some tightening and extension of the regulation of drones.

This is an important Bill because aviation is an important industry, and how well we manage and regulate it impinges greatly on our future prosperity. As the Minister said in a letter to my noble friend Lady Randerson:

> "Modernising our airspace is essential for maintaining the UK's position as a world leader in aviation. The UK's airspace has not undergone significant change since the 1960s and is now reaching capacity."

In such circumstances the Bill is not just timely but—as the noble Lord, Lord Tunnicliffe, indicated—overdue.

In the 21st century any Bill about aviation has to clear a number of hurdles. It has to promote efficiency and competitiveness, improvements—especially, as the noble Lord, Lord Tunnicliffe, emphasised, in the environment, where we strive to be greener and cleaner—and safety. In the case of drones, it has to help fight against abuse and misuse of drone technology.

Last Wednesday evening I attended the amazing session organised by the Lord Speaker, when we heard from Sir David Attenborough about the climate change crisis. I noticed that Sir David was reluctant to demonise out of hand the industries that contribute to climate

[LORD MCNALLY]
change and global warming. The truth is that it is the success of industries such as petrochemicals and aviation that have contributed to the success of the world economy over the last century and the living standards we now enjoy. We will need the skills and know-how of the industries we now brand as polluters if we are to retain the benefits of these industries while dealing with the downsides of their operation.

Airports are a good example. As a young MP, 40 years ago, the first Adjournment debate I obtained in the other place was on aircraft noise over Stockport. The debate was answered by a junior Minister called Norman Tebbit, who, like the noble Lord, Lord Tunnicliffe, had experience as an airline pilot. In raising the question of aircraft noise, I was raising a genuine concern of my constituents, but I never lost sight of the fact that Manchester Airport was, and is, a massive engine of growth and job creation in the north-west region.

Another experience which influenced my attitude to airports was in 1976, when I was sent by Lord Callaghan to Atlanta to meet some of the key officials who would be joining President-elect Jimmy Carter in Washington. I met one of his senior aides in Atlanta City Hall, and I complimented him on the success and obvious dynamism of the city. His reply has influenced my views ever since: "Well, it helps that Coca-Cola has its world headquarters in Atlanta, but the smartest decision we ever took was to campaign to be the southern hub airport for the USA. Airports are like rail heads were in the old west: they create economic activity and growth." I believe that to be true, so how we use our airspace is very important, in both its economic and environmental impact. We have to assess the measures and powers in this Bill in the light of both.

The same is true of drones, which have quickly moved from futuristic toys to key means of efficient delivery of goods and services, and weapons of war. As with airports, it is easy to demonise drones and, as with almost every other technology, we have to accept that, along with the benefits, there comes abuse by the criminal and the irresponsible. The Bill highlights and provides remedies for abuse of drones, both in terms of airline safety and nuclear and prison security. We will undoubtedly stress-test the proposals in the Bill in Committee. I must confess that, from my time as a Minister at the Ministry of Justice, I retain a puzzlement why there are not the means to disable drones attempting to smuggle drugs or other contraband into prisons. It is important that, in the passage of the Bill, we examine thoroughly the real and present dangers posed. But we should do so while taking into account the warning contained in the briefing we received from the Royal Institute of Chartered Surveyors, which says that it is important that the legislation is enabling and does not create unintended consequences that might stifle innovation.

A similar concern was expressed by the Drone Delivery Group, which seeks to co-ordinate industry policy in this area. In its proposal published this month, the group acknowledges that the UK Government have been at the forefront of drone regulatory development since initial guidance published by the CAA in 2001. But it goes on to warn that, despite the very best-intentioned efforts, the overall government landscape is fractured, with different departments sponsoring, or at a minimum working with, different groups and approaches, with no clear national strategy to understand and ultimately develop and standardise an evidence-based UK unmanned air system traffic-management landscape. The House will want to test the legislation before us against such criticisms. As the Drone Delivery Group warns: for the UK to maintain its reputation as being at the forefront of this dynamic emerging industry, industry and government must collaborate in establishing a new approach. As ever, our test for legislation must be the test of efficiency in addressing the problems identified, balanced with proportionality in avoiding unintended consequences.

My attitude to flight controllers goes back to a time, over 40 years ago, when, while in government, I was offered a lift back from a conference in Germany in an RAF HS125, from Bonn to RAF Northolt. Because I was the only passenger, the pilot invited me to sit up front with him and to wear the ear cans to listen to air traffic control. I am a good flyer, but I have never been so scared in my life. The airspace seemed to be full of aircraft. When I expressed some concern, the pilot reassured me, "He's doing a great job shuffling us through the pack. We're on a clear run into Northolt."

That experience left me with the impression that air traffic control is a kind of three-dimensional chess. However, we know that these days the aircraft is flying at its safest when under the control of its autopilot computer. It crossed my mind that air traffic control will be done more and more by artificial intelligence. As I said, I am a good flyer, but can the Minister assure me that in this brave new world, where the aeroplane is flown by computers and the traffic controlled by AI, there will still be a noble Lord, Lord Tebbit, or a noble Lord, Lord Tunnicliffe, somewhere at the controls?

3.40 pm

Lord Craig of Radley (CB): My Lords, I am happy to support the purposes of the Bill. The first two parts, dealing with our very dated airspace management and air traffic services, are timely. Periodic review and update of airport departure and approach procedures are necessary. No airline operator wants to climb away many miles in the wrong direction for their intended destination than strictly necessary for safe flight. No passenger wants to be delayed by protracted stacking of incoming flights leading to longer time being spent aloft. Adjustments, no doubt with some give and take, must be found. The CAA is well placed to co-ordinate and adjudicate as necessary. Looking to the future, much further, more complicated and, I dare say, controversial air traffic management arrangements will be required if and when urban air mobility, in the shape of unmanned flying taxis, for example, reaches our shores.

The Bill deals only with civil aviation, which raises the question: how does this meld with MoD and Royal Air Force requirements? RAF Northolt is a vital MoD and civilian-use airfield very close to Heathrow.

Its departure and approach requirements must be fitted into the overall requirements of a very busy airspace. Elsewhere, Brize Norton, for example, which operates the larger types of RAF aircraft, including passenger and freight, will need departure and arrival flight paths that do not conflict with other civilian routings.

The RAF has representation in the CAA, which is important if MoD and civil requirements for airspace management and air traffic services are all to be taken into consideration and able to work effectively together. However, the Explanatory Memorandum and the Bill are silent on this obvious MoD interest. Maybe I missed it.

Regrettably, I was unable to attend the pre-briefing meeting arranged by the Minister to discuss the Bill, when I should have been able to raise and query these and other MoD-related issues. I have, however, given the Minister prior notice of my points and some others dealing with unmanned aircraft. For the record, I would welcome her response to them, either when winding up or by a letter later.

I welcome the part on unmanned aircraft, too. All flights need to take place without risk of collision. Like a bird strike, a small drone could smash the windscreen and injure those on the flight deck, or seriously damage or destroy the engine of an aircraft. It could be the cause of a fatal accident if a helicopter blade struck even a very small drone. A light unmanned aircraft could well be made unstable and plummet to earth if exposed to the significant wake turbulence created by large aircraft, endangering individuals on the ground.

Keeping all manned or unmanned aircraft well apart is fundamental to safety in the air. The incident at Gatwick in December 2018, which has been mentioned, gave us all a real live example of a highly annoying, disruptive and potentially disastrous event, for which Gatwick, the Department for Transport and, indeed, the Home Office seemed ill prepared. The lack of police or other authority powers to deal with the perpetrators or the offending drones became all too clear. The incentive that this Gatwick fright created—to devise real-time active disruption, even destruction, of illegally operated unmanned aircraft—has started to produce results, but can the Minister confirm that policy and legal cover are in place?

The consultation which led to Part 3 of the Bill covered many areas of weakness or incapacity that emerged from Gatwick's experience, and the policy and legal approaches required. However, I would prefer part of the punishment for infringement by small unmanned aircraft to be confiscation by the police, and for lesser infringements to attract a fixed penalty notice. Knowing that one's kit and airframe will be confiscated if the rules are flouted could be a powerful deterrent to illegal use, and a powerful deterrent including a fine or imprisonment is what is required. The risk of disaster if there is a collision, or even a near miss, is so great. Other considerations, such as alcohol tests for operators, come to mind. There may be good reasons why such requirements would not be workable, but I would welcome the Minister's comments.

I note that permission to search the property of a suspected drone or SUA operator requires the approval of a chief constable, and that includes the chief constable of the Civil Nuclear Constabulary. Presumably, similar arrangements cater for infringements of MoD holdings, and not just airfields. I am thinking of, for example, Faslane—the Royal Navy's nuclear deterrent base—or the Atomic Weapons Establishment, because SUAs might mount more than just a surveillance camera, so possibly lethal dangers that they could carry should be considered.

The Bill stresses the responsibility of the pilot or controller of the drone. Is the Minister satisfied that the wording is comprehensive enough; for example, in paragraph 1 of Schedule 8? Does reference to the person controlling the unmanned aircraft also cover the case of the aircraft following an automated flight programme and not being controlled by an operator on the ground? The constable may have a problem requesting the automated drone to be grounded if that is how it has been programmed.

Referring to the fixed penalty notice section, the Explanatory Notes outline that an offence would be created had a person unknowingly flown within 50 metres of a building yet had caused no harm. It may not be for the passage of this Bill, but I foresee some difficulty in measuring and applying a 50-metre rule, possibly of short duration and without the advantage that a speed camera has of recording evidence on the road.

Finally, can the Minister confirm whether the consent of the devolved Administrations is required for any of these proposals, and if so, has it been obtained?

3.48 pm

Viscount Goschen (Con): My Lords, I declare two interests. In the course of my professional activity as an executive search consultant, I work with a number of aerospace and defence companies, some of which are involved in UAV or counter-UAV and related technologies. I also hold a humble private pilot's licence and am the owner and operator of a light aircraft. I recognise that I am in the presence of far superior former commercial and military pilots in your Lordships' House; none the less, perhaps I have a perspective to offer.

This is essentially a technical Bill. So far, the only criticism I have heard has been from the noble Lord, Lord Tunnicliffe, concerning why it was not brought forward more quickly. We can look forward to a good and typical House of Lords territory investigation of a technical Bill, but which of course has important policy consequences.

I support the Bill and commend the Government for bringing it forward. As we have heard, it addresses two largely but not entirely separate subjects: management of airspace and the arrangements for regulating the operation of UAVs. Part 1 of the Bill has flowed from pressure to manage our airspace efficiently and effectively and to modernise it. The term "modernisation" seems appealing, but this is a detailed field and any changes to the way in which our airspace is designed and operated have to be made on the basis of hard data. We have seen a tremendous growth in commercial air travel and in the performance of commercial and

[VISCOUNT GOSCHEN]
military aircraft. Among the biggest changes have been in computer technology, both airborne and terrestrial, and, in the advent of satellite communications, the associated global positioning system and related systems.

In the cockpit of my 1930s-designed aircraft I have the same pre-war flight instruments and gauges with which it would have come from the factory—a VHF radio which is more or less the same in operation as one made decades ago—but I also have a Mode S transponder, which identifies the aircraft in flight to an interrogating radar, and a highly sophisticated GPS-driven app which provides extraordinarily rich user-friendly navigation and traffic data that an airline pilot of the 1990s would have thought extremely impressive.

The technology has changed but the design of the airspace remains the same. In these days of high demand for air travel and major environmental pressure to reduce fuel burn and to control noise, there is clearly scope for enhancing the way in which aircraft are managed in controlled airspace. There is no argument against that sentiment, which has led the CAA to develop its airspace management strategy, from which the first two parts of the Bill are derived. This document was developed with a good deal of input from stakeholders utilising public consultation.

While it is clear that modern aircraft monitoring technology—both airborne self-reporting and ground-based—and computing power will fundamentally change what is possible from an airspace management perspective, looking further into the future our commercial airliners, as the noble Lord, Lord McNally, noted, already have a great deal of highly sophisticated proven automated flight systems, including for landing. One can envisage a point in the future where ATC and aircraft are more heavily controlled by computer systems than by human-to-human interface via open VHF radio, which is an archaic and poor way of communicating data. I sympathise and empathise with the noble and gallant Lord, hearing all this chatter on an open system, whereas only discrete pieces of information are intended to be communicated from the ground to the air and vice versa. However, that future gazing is perhaps for another day.

As one would expect with a subject such as this, much of the output is highly complex technical detail which, no doubt, will be discussed off the Floor of your Lordships' House by specialists rather than on the Floor in terms of policy development. However, that is not to say that there are not important matters for the House to consider.

I support the overall thrust of Parts 1 and 2 of the Bill, regarding the Secretary of State's ability to give directions to third parties to co-operate with airspace management proposals. After all, we are talking about a national system that is part of an international system, and which requires an integrated rather than a piecemeal approach. It also requires taking full account of local factors, so it is a hybrid between a fully integrated and a local system. There is a great deal of detail to cover.

My primary interests in the Bill relate to general aviation and the interests I declared earlier. General aviation covers the recreational use of light aircraft, gliders, balloons, microlights and related businesses such as flight training, which is vital to our national economy and to producing the flow of professional pilots that the industry will need in the future and for the UK sector's competitiveness. The Government have in the past made formal statements about the value to the UK economy and to the commercial aviation industry of a thriving general aviation sector and about the importance of safeguarding the necessary infrastructure such as airports and airspace.

With that background, I wish to make just a few detailed points. First, the voices of all stakeholders, including general aviation, should be heard when considering the classification and design of airspace. The CAA is not often commended by various parties, but it is a highly professional organisation that serves the United Kingdom extremely well and is known for high standards and deep knowledge. It is to be commended for the way it has gone about consultation, but weight should be given to the voices of all parties going forwards. It is no surprise that many airport operators wish to control ever more of the airspace around them, which can lead to unintended consequences as general aviation is sometimes forced into narrow bottlenecks of uncontrolled airspace.

Secondly, reclassification decisions should be taken only on the basis of an objective analysis of detailed data on a given subject. If it is decided that certain airspace should be reclassified as controlled, then proper arrangements should be put in place for all suitably qualified parties to be allowed access, under control, into that airspace. It is not acceptable for operators to deny GA access on the basis that they have insufficient resources to cope with the traffic in the airspace they have requested. That would seem to be a reasonable and balanced approach.

I was very pleased to hear the Minister emphasise in her introductory remarks that the reclassification of airspace should not be in one direction only. If it is shown that controlled airspace is not being used by controlled traffic, it should be released to uncontrolled use. There has been something of a ratchet effect going in one direction, and I was very pleased to hear that the Minister understands the argument that such airspace should be released when not required.

What is the Civil Aviation Authority's plan for the network known as the lower airspace radar service, which assists traffic operating at lower altitudes? There have been a number of changes to that service. I know these are complex questions—the Minister might care to write to me in due course, rather than take up the time of the House.

Much of the debate we will have in Committee and on Report will concern drones. Clearly, the technology has developed extraordinarily rapidly and there is a potential benefit to society, commerce and the country; we should not forget that when we are considering the regulation of drones. However, regulation is required; we need a more robust system. The noble Lord, Lord Tunnicliffe, and other noble Lords talked about the incursion at Gatwick, which was as clear a

demonstration as one could possibly want of the chaos that can be caused by a highly sophisticated £1,000 drone controlled by an iPhone from many kilometres away. We can only presume that the technology will keep developing and that the pace of development will accelerate. Drones will be lifting greater cargo and in due course, as we have heard, they will be lifting people and becoming autonomous flying systems. It is therefore essential that we put in a framework. It is extraordinarily difficulty to future-proof it, as the noble and gallant Lord, Lord Craig of Radley, told us; none the less, the Bill is an excellent start and I commend it to the House.

3.58 pm

Lord Whitty (Lab): My Lords, I thank the Minister for her comprehensive introduction to the Bill. I apologise to her for not coming to her briefing meeting, but I hope that nevertheless she can answer some of my points.

Broadly speaking, I support the intentions of this Bill. I guess I have two interests to declare. One is that I am vice-president of BALPA. That does not mean I have the expertise of my noble friend Lord Tunnicliffe or others in this House, but I am taking on board many of the points that it wishes to raise.

My second interest is slightly more tenuous, in that I inherited from the noble Baroness, Lady O'Cathain, who was here for the earlier part of the debate, responsibility for chairing the committee that produced this report in 2015 with many recommendations. In those days, we called drones "remotely piloted aircraft systems" but we all know what we are talking about. When I took on responsibility for following up the report, I found that Ministers were somewhat reluctant to take much action in the early days. Luckily, that has now changed. There was a Bill that was aborted in the last Parliament and there has been an extension to the protection of airfields, with 5-kilometre geofencing around them—a protection that now applies to many other secure sites. Therefore, we have made progress.

I will concentrate largely on the drone aspect of this subject. I recognise that nowadays we have to accept and support the technology for the many applications of drones that affect our lives and our security, but there is also the key issue of safety in the use of drones in the air and on the ground. In addition, a range of issues raised in the report produced by the committee of the noble Baroness, Lady O'Cathain, have not been fully addressed and they are not really addressed in this Bill. Some relate to the safety of other users in the air and on the ground, but there are also the issues of insurance, licensing, privacy and liability, and indeed there is the question of how far the multiple operation of drones by one programme and one operator is compatible with our current regulations.

The Gatwick incident and the anxieties that it raised have obviously increased the public profile of drones and the level of concern. Those concerns relate not just to an individual collision, disastrous though that might be, but to a total system being threatened by a drone being operated wrongly, whether it be the deliberate endangering of the operation of an airport or airfield, terrorism or simply a number of kids getting hold of these machines and causing disruption for a laugh. We have to develop a regulatory system that deals with both the big security issues and an individual drone being used in the wrong way.

The design and the use of unmanned and manned aircraft, and the components of manned aircraft, are important considerations and things that we need to follow through in this legislation. For example, limited testing has shown that the collision between a medium-sized drone and a screen could be catastrophic—for the screen, the flight crew and, potentially, for the passengers. The incursion of a medium or large drone into a jet engine could also be catastrophic. As I understand it, the limited testing that there has been has not turned into a fully fledged test of new aero engines, or indeed a way of ensuring the resilience of existing in-service engines. The certification process for aero engines is therefore not yet in place.

Standard testing is urgently required so that the ingestion of a drone, which could be much more damaging than the ingestion of a bird—which is part of the standard testing and certification operations—is taken fully on board. Certainly at the larger end of drones, very serious damage could be done to an engine, as well as to the body of an aircraft. However, even a small metallic drone could do serious damage, particularly to the operation of helicopter blades and so forth. It is the responsibility of the aerospace industry internationally but also of the Government to ensure that we mandate drone ingestion as part of the certification of aero engines.

We also need some changes in the air traffic control regulations to ensure adequate separation. That has long been a key feature of air traffic control between aircraft to mitigate the effects of turbulence, but it can also apply in relation to the relationship between aircraft and drones. Again, the interrelationship between helicopters and drones is probably the most acute in this respect; it could cause damage to both the helicopter and the drone as well as, potentially, damage on the ground. I hope that all these things can be addressed in the technical detail of the Bill.

I also have a number of points relating to enforcement. In recent years we have seen a big increase in the use of drones in all sorts of quite legitimate commercial operations. We have also seen the use of drones effectively for pleasure and some criminal use of them. I would like to consider in the course of the Bill strengthening the enforcement side so that not only are all operators licensed but—in my view—they have to be over 18, they have a clear record, they are not under the influence of drink or drugs and the way in which they operate and treat those drones is built into the enforcement and checking system and the police powers over them.

There is the question of, for example, deliberately removing in-built safety features from drones such as the geofencing requirements, the requirements for lights on larger drones and the telemetry features of the transponder that allow the drone to respond to the geofencing. If we remove some of those, the drone becomes a much more dangerous machine and, for all sorts of reasons, it is possible that users might be tempted to use it. Indeed, in the extreme case, there is the deliberate weaponisation of drones: terrorists or others might add blades or other damaging features to

[LORD WHITTY]
the drones or use them for carrying arms or explosives. Those are very serious breaches of safety and security, not only of a single aircraft but of a whole aircraft system and the whole area.

I also suggest that the individual machines as well as the operators need to be licensed. That is after all the situation regarding vehicles both in the air and on the ground, and there is no reason why it should not apply in this case.

Lord West of Spithead (Lab): Does my noble friend agree that one of the problems is that we have such a successful drone industry that it has been loath to allow regulation to take place, but it really has to do so because there is now such a dangerous risk?

Lord Whitty: I agree entirely with my noble friend, and I think there are elements within the industry itself that recognise that. As with other new technologies, an industry begins to come of age when it begins to accept and contribute to better regulation to mitigate the problems in its sector.

I will also be suggesting that we need to look explicitly at the police powers in this area. The powers to ground an aircraft are not clear. The ability to enter premises or stop and search for an aircraft or for elements of an aircraft are also not yet clear. While I recognise the need for FPN for minor offences, it needs to be clearer what those offences actually are. I would also be grateful if the Minister spelled out a little how far we are getting with counterdrone technology and how rapidly we might see that in place.

I had a couple of points on Parts 1 and 2, but my voice is giving out. I hope the Minister can respond to the points that I have made.

4.09 pm

Lord Naseby (Con): My Lords, it is my privilege to have been an RAF pilot, flying both fixed-wing pistons and jets. I have flown extensively in Pakistan, Canada and the United Kingdom. More recently, my family gave me an hour in a Tiger Moth for my 80th birthday, so I have gone from one end of the aircraft spectrum to the other. I continue to have a deep interest in this whole industry. Indeed, around the corner from where I live is the Shuttleworth Collection of interwar and model aircraft.

It is fair to say—I do not think the Minister will disagree—that we have not exactly been in the vanguard of control. I looked back at my own references in this House and they go back to 2015, so it is five years since we first started discussing these problems. Certainly, for a long time, the USA, France and the Republic of Ireland were ahead of us in this area of consideration. However, I say a big thank you to my party and the Government now in power. In the general election campaign, it was emphasised that we would legislate on this and here we are, one month on. I congratulate those who have ensured that this happens today.

I too will confine my remarks to the areas covered in Part 3 of the Explanatory Notes. I will try not to repeat what the noble Lord, Lord Whitty, said, but we are inevitably covering the same ground to a degree. The key thing that is drilled into any pilot is to keep manned aircraft separate from unmanned aircraft in flight. So far, we have done only a limited amount of testing on the impact of this. That limited amount of research shows that, when problems happen, the result is catastrophic. If something is catastrophic, we ought to take it extremely seriously. We know the risks are particularly bad for helicopters, but it is almost as bad for other aircraft. We know that engine ingestion testing has not yet been completed. That ought to be a priority for those involved in this. As the noble Lord, Lord Whitty, said, a lot of work has been done on bird impact. If we can do it for birds, we jolly well ought to get on and do it for drones.

An area which has always been there, but which is even more important now, is wake turbulence. This is a problem for anybody who is flying, but it is nowhere near as big a problem as it is with the difference between a normal manned aircraft and a drone. With wake turbulence, it is highly likely that a drone will be tossed away, with ghastly effects. As the law currently stands, there is no provision for a mandatory minimum wake turbulence separation between drones and aircraft. It seems to me that work should be done on this as a priority.

The Air Navigation Order 2016 includes regulations on unmanned aircraft and new regulations were introduced on 30 November last year. I think it is the view of those of us who take an interest that it would be preferable for deterrence and enforcement if each unmanned aircraft were required to be registered. It has already been mentioned that drivers of road vehicles have to do that. I am the owner of a couple of shotguns. Each of those has to be registered and kept in a locked cupboard which is inspected by the local constabulary. All I can say is that they are an awful lot less dangerous than a situation with a drone.

The Bill includes reference to fixed penalty notices. That is fine, but I hope that when we come to discuss this, we shall differentiate between what I might call small, routine offences and those that are much more serious. If it is serious offences, fixed penalty notices are not an adequate deterrent.

Mention has been made of the need to train the police on their drone enforcement powers. Obviously, that is an area that we have to look at.

There are additional measures, a couple of which were mentioned by the noble Lord, Lord Whitty. I say merely, as did he, that we need to think about these very seriously. On the creation of a criminal offence of weaponizing a drone, that does not necessarily mean putting a bomb on it or anything else; it means altering the drone sufficiently to make it a flying weapon, without it having any combustible material on board. The same applies to safety features being removed.

Mention has been made of drug and alcohol laws coming into line for manned aviation. I think that exactly the same should apply to drones. It is absolutely right that a minimum age should be set, with 18 as an absolute minimum.

Then there is the question of swarming, which I do not think anybody has raised. I suppose that I know a bit more about this, as I am next door to Shuttleworth.

I can just see the delight that some talented young man or woman would have in flying two, three or four drones at a time. That has the potential to be exceedingly dangerous, and it should be legislated against. It might be great fun, but it is nevertheless terribly dangerous.

I thank my noble friend on the Front Bench for introducing the Bill. We shall work with her in trying to produce good law for this fascinating area of aviation.

4.16 pm

Lord Bradshaw (LD): My Lords, I do not intend to rehearse what others have said, only to underline a few things. May I turn to resources? It is essential that the Civil Aviation Authority has sufficient resources to do the job it is asked to do. If it is being kept short of resources, as referred to by the noble Lord, Lord Tunnicliffe, I hope that the Minister can assure the House that it will have the resources to do what is asked of it. They are well respected, hard-working people, but they do not deserve to spend a lot of their time fighting over their budget.

In terms of resources, however, I am more concerned about the responsibilities being put on the police. A lot of legislation has passed extra responsibility to the police, be it looking out for knife crime, looking out for drug crime or looking out for terrorism. I know that the police are hopelessly stretched. I seek an assurance from the Government that, if the police are to be given extra responsibilities under this legislation, the resources at their disposal will be increased so that they can train specialist officers to deal with them. It is not something that—if I may put it this way—PC Plod from around the corner can claim to have specialist knowledge of; there will need to be intelligent people behind any enforcement.

It also strikes me that a lot of private benefit is likely to come from the use of drones. I think all of us can think of things that might happen, from the delivery of parcels by Amazon to people filming for television—all sorts of things. I urge the Government to make sure that the people doing these things for private gain—they will not do them for free—contribute something in the way of licence fees to whoever is to enforce the law, because one without the other is quite meaningless.

I also reiterate what has been said about powerful deterrents. You have to decide who you are dealing with. Finding powerful deterrents for an individual may be quite easy, but for companies such as Sky or Amazon deterrents must have teeth in order to bite. I echo the words of the noble Lord, Lord Naseby: there comes a point when people should not receive fixed-penalty notices, however big, if they do not obey the law. They should come before a court to explain what they are doing and answer for it. We are talking about potentially dangerous activities.

Lord Berkeley (Lab): The noble Lord will remember Christmas a year ago when the drone—or drones—caused so much trouble at Gatwick. The police and the authorities seemed to have great difficulty in identifying the drone and the person controlling it. It is fine to have more police powers, but how will they be able to use them unless there is some form of identification for the drone or the operator?

Lord Bradshaw: I think that probably comes down to licensing operators and drones.

My final point is about the disabling of stray drones, or drones that should not be there. I am no expert on aviation, but has consideration been given to the means of disabling drones engaged in criminal activity or straying from where they should be?

4.22 pm

Lord Kirkhope of Harrogate (Con): My Lords, in general I welcome the Bill. I declare my interest as a pilot, a former airport board member and chair of the inquiry set up by the All-Party Parliamentary Group on General Aviation last year, looking into the UK's lower airspace. I will concentrate most of my remarks on airspace elements in the Bill. First, I recognise the importance of the aviation 2050 consultation paper, which was widely responded to. It was extremely helpful in our discussions and will, no doubt, be helpful to the Government. There were general remarks about the constricted nature of airspace in this country, especially in the south of England, where there is a big mix of general aviation and non-general aviation traffic.

As a consequence of the growth in aviation generally in this country, the CAA and the Department for Transport have both rightly recognised how complex UK airspace is—possibly the most complex in the world. Much of the design and principles have not changed significantly since the 1950s or 1960s, as the Minister indicated in her opening remarks. As my noble friend Lord Goschen and other noble Lords have said, there have, of course, been changes in technology. We have moved on, but the administrative and legislative support has not changed to match them. The Bill gives the Secretary of State the power to change, remove or apply an airspace change by directing a party to make such a change. I hope that the Government have properly considered what sort of ethos needs to apply here. I appreciate that we cannot remove the regulations set out in Section 70 of the Transport Act 2000, but it is important to note that those legislative requirements that govern how the CAA must manage its airspace are still significantly important. I will return to the CAA's responsibility in a moment. When exercising its function, the CAA should, of course, consider safety, primarily, then efficiency and also the equitable treatment of all airspace users, together with a high level of proportionality. Again, the issue of proportionality is important. Our inquiry last year declared that we should always apply the criteria of safety, proportionality and need when looking at changes in UK airspace.

It is also important that proposals made would inevitably extend the powers of the CAA to some extent. I was interested to hear other noble Lords' references to maintaining the resources of the CAA in order for it to do its job both now and in the future. I very much believe that the CAA must have some form of independent review procedure in any changes or proposals for change that it wants to make, while maintaining the criteria to which I have already referred. I think it is important, in relation to its resources, that the Government should consider exempting the airspace department of the CAA from the financial

[Lord Kirkhope of Harrogate]
return requirement. This would allow it to take on the extra responsibilities without worrying about the financial consequences. I also welcome, generally, a sensible enforcement and appeals approach to future airspace diktats. The inevitability of court action is not conducive to speedy and equitable outcomes and it does little to achieve mutually sustainable outcomes.

Throughout our inquiry we were reminded of the pressing need to be able to remove airspace when it is not demonstrably required. Other noble Lords have also, rightly, pointed this out. It is important that such a reduction in airspace is available to us. The Minister's predecessor, my noble friend Lady Sugg, reassured me in a Written Answer to a Question I raised in March 2019 that,

"a key policy objective is to ensure that the UK has the minimum volume of controlled airspace consistent with safe and efficient air traffic operations".

How will the Government actually achieve this? Where is the power for the Government or the CAA to maintain it? Surely this must include powers to remove controlled airspace. Indeed, sometimes one wonders about airport operations, particularly, which build up enormous areas of controlled airspace that are not required in due course. One almost feels that this is a virility symbol, or at the very least some form of asset build-up—a bit like a builder's landbank in the domestic sector—by which some airports wish to increase their asset value through the size of their controlled airspace. It is almost as bad as the use of slots by airlines, which become almost the most valuable part of the entire operation of an airline.

I welcome the proposals for a review process for airspace change programmes and new powers for the Government to require controllers of airspace to consult where appropriate. This must obviously include circumstances, as I said, where there may be a justification for reducing airspace as much as where there is a wish to increase it.

I shall refer briefly to the issue of pressure on those involved. I very much respect the work of air traffic controllers. The noble Lord, Lord Whitty, referred to artificial intelligence and then we heard from my noble friend Lord Naseby, who displays an enormous amount of intelligence which is not computerised but arises from his broad experience. I believe that it is important that we will be relying on individual air traffic controllers—real people—and the pressure on them of any changes we make must be taken fully into account.

I said that I would not refer to much other than airspace, and I do not wish to divert into the question of drones, but I feel that the challenge of the arrival of these unmanned objects puts great pressure and tension on the issue of airspace and those who control it. As technology rapidly improves, it makes it possible to create more flexible airspace. We concluded in our inquiry that systems such as PilotAware and others, coupled with digitisation and the ease of access to NOTAMs—notices to airmen—mean that pilots are far better prepared than they have ever been in the past. Together with all these changes, I hope that the Government will realise that we need to make sure that pilots are adequately trained to deal with not only technology but the changes that are made to airspace and to the rules and requirements upon them of traversing across and outside of airspace.

General aviation in the UK is a substantial contributor to our GDP, greater than some of the other areas we spend a lot of time debating. I will not pick any in particular except to mention that it is greater than fisheries, for example, which is a very difficult subject. We must understand that general aviation is not only important to this country and its future but certainly deserves our full support and encouragement.

4.31 pm

Lord Davies of Gower (Con): My Lords, it is a real pleasure to speak at Second Reading and to follow my noble friend Lord Kirkhope, who is to be congratulated on the report he produced, having conducted the inquiry into airspace on behalf of the all-party group. I declare an interest as co-chair of the All-Party Parliamentary Group on General Aviation and as a user of airspace as an aircraft operator and general aviation pilot.

I speak in support of the Government. Frankly, I am relieved that they are taking swift action to tackle the problem of airspace reform, which is becoming urgent. UK skies are some of the busiest in the world, due to our geographical positioning—a situation that will get only worse as the global aviation industry grows. As a country, we should not be afraid of a growing industry; we should embrace it. Technological advancement is bringing us quieter, greener and more efficient commercial aircraft, with the eventual goal of full electrification.

Today's jet aircraft are 80% more fuel-efficient than they were in the 1960s, when they first came into widespread use. Some 80% of aviation CO_2 emissions comes from flights of over 1,500 kilometres, for which no other practical mode of transport is available. By 2036, it is forecast that aviation will directly contribute $1.5 trillion to world GDP.

However, industry growth is beside the point; our skies are already overcrowded, even under current traffic levels, and current UK systems are struggling. Therefore, it is right and proper that measures be taken at a strategic level to ease congestion and bring UK airspace in line with modern international standards. It is important that the Secretary of State has these powers to move the modernisation programme forward.

It must be recognised that the Bill does not go into detail about how a strategic modernisation programme should be undertaken by the CAA; it simply gives the power for the Secretary of State to direct that a change should happen. Airspace should be considered a limited common resource. Diverse user groups all compete for the same volumes of sky, and the right of access for everyone must be protected as a central principle of airspace strategy. I always think of it as akin to the right to roam in the countryside. Government, and by extension the CAA, should be the neutral arbiter of airspace, actively protecting the rights of all users to access common airspace resources.

Currently, a worrying attitude exists among airport operators that the size of controlled airspace around a facility is linked to the value of that facility—almost

treating it as land attached to a property. This attitude has incentivised bad airspace change proposals based on bogus projected traffic figures. More must be done to prevent airports seeing their controlled airspace as linked with the commercial value of a site. Decisions made on individual airspace change proposals in isolation must be put in the perspective of overall strategic worth and reviewed.

For example, the extremely controversial introduction of class D and E airspace around Farnborough, which comes into force on 27 February, has been sought by the operator based on predicted traffic numbers but was seemingly made without due appreciation for other users. Both the thriving Lasham Gliding Society—incidentally, the world's largest club of its kind—and the many GA operators in that area will be negatively impacted by the reduction of their "right to roam" in the area. Yet, under previous rules there would be no way to challenge a decision once it was made. Should these ambitious traffic numbers fail to materialise, nothing could be done to return the airspace to common use. I therefore welcome the very important provision in the Bill to introduce a mechanism to review airspace changes once they have been activated, which, astonishingly, is not an option currently available to the CAA.

Controlled airspace in the UK, especially around London, is currently very complex and not fit for purpose. Much of the basic structure managing the skies above our heads was created in the 1950s, as has been said, and is designed to accommodate the performance of, for example, DC-3s, the old Stratocruisers, Constellations and similar aircraft. Current high-performance jets are a world away from these legacy airliners, and our airspace must be updated to reflect it. Many of your Lordships will have seen the article in the *Times* today detailing a new report, commissioned by the Campaign to Protect Rural England, which suggests that aircraft noise is blighting the lives of more people than the Government admit. Clever airspace design, facilitated by the new review mechanism in this legislation, could be used to address this problem and take many more people out of aircraft noise zones.

Modern jets are capable of rapid climbs and descents. It is even advantageous for them to do so, as at higher levels jets are both more fuel-efficient and further away from communities on the ground. This performance gap means that large chunks of controlled airspace are not used at all, with airliners using tight corridors in and out of airports. Large chunks of the air are, therefore, absurdly left with no traffic at all but remain under control. It has always seemed strange to me that large zones, such as in the London area, have angular corners—areas restricted to GA but never used by commercial traffic.

The utterly enormous London Terminal Manoeuvring Area, which covers most of the south of England, in some places restricts light aircraft to flight below 2,500 feet, while jets fly many thousands of feet above. It seems not just bonkers but wrong that light aircraft users are denied access to this airspace for the sake of a decision made decades ago. I see no compelling safety case for zones around London to be as large as they currently are. What is worse, our large zones force traffic that cannot access the zones into tight corridors, where the risk of a mid-air collision is made higher. New powers to review and reduce airspace must be used with vigour to cut down redundant controlled airspace that is never visited by jets. It is right, proper and justified to open up areas of this common air for use by general aviation.

While the Bill is a valuable step towards airspace reform, allowing the Government to direct necessary changes, it does not address the fundamental problems with the CAA's airspace change process. *CAP 1616*, the current guidance on the regulatory process for changing notified airspace design, needs to be reformed to improve the way the CAA considers proposals. Process needs to come more in line with principles of planning, moving from an individual to a corporate process, including mechanisms for objection before a court stage, and potentially measures akin to Section 106 agreements for airspace increases. When regulating lower airspace, there must be recognition that some risk is unavoidable. Processes must be altered to ensure that the responsibility for risk in an airspace change does not fall on individuals to facilitate more reasoned decision-making by regulators.

One aspect not considered by the Bill is who will shoulder the cost of airspace changes directed by the Secretary of State—I would very much welcome comment on this by the Minister. Some airfields may be directed out of necessity to submit changes but will potentially not have funding or resources to do so. Care must be taken by the Secretary of State not to impose airspace change processes on businesses that can ill afford to spend resources on such an undertaking.

The Bill also introduces important and necessary measures to allow the police to enforce regulations on drone use. It must be recognised that 99% of drone operators in the UK do so in accordance with the rules and cause no nuisance to the rest of aviation. However, it must also be recognised that drones have the potential to be used against aviation maliciously; it is good that police will now have the powers to manage such incidents swiftly.

As the noble Lord, Lord Bradshaw, said about training, to accompany this new law, the Government must make provision to train police officers on the operational use of these new powers to ensure that they are effective in what the Government intend them to achieve, both practically and technically. Evidence-gathering is especially important if drone incursion incidents are to be investigated properly. Police need to be aware of the specific challenges that an aviation environment brings in this process, where a drone can be out of the operator's line of sight.

Overall, the Bill is a great step forward and brings in much needed powers for the Secretary of State to direct a programme of modernisation. I hope the Government will take this forward—keeping, I trust, a principle of maximum access to lower airspace as a key priority when directing air navigation service providers to make changes.

4.41 pm

Lord Campbell-Savours (Lab): My Lords, I want to speak briefly on Part 3 of the Bill, entitled "Unmanned Aircraft".

I understand that the Bill makes new provisions

"for constables to allow them to better enforce UA provisions in the ANO 2016"

and includes

"powers to require an unmanned aircraft to be grounded, powers to stop and search persons or vehicles in specific circumstances, powers to enter and search premises under warrant, and powers to issue Fixed Penalty Notices".

However, there is one thing it does not do. It does not appear to give the authorities the power to confiscate equipment. I would have thought that critical in making the Bill work. I would have thought it would concentrate the minds of people using equipment irresponsibly or illegally to know that their equipment, some of it quite expensive, could be confiscated in certain circumstances. The Government should issue guidelines on the circumstances in which equipment could be confiscated in the event that they are prepared to move an amendment to deal with this issue in Committee.

4.42 pm

Lord Rosser (Lab): My Lords, I appear unique in being able to speak in the debate without having any direct specialist knowledge or experience of the issues in the Bill.

The Bill confers new government powers on changing the design of airspace, alters the licensing framework for air traffic control and provides new powers for police and prison authorities to deal with the unlawful use of unmanned aircraft, including drones and model aircraft. As I understand it, the terms of the Bill apply to the whole of the United Kingdom, with the unmanned aircraft provisions being subject to legislative consent from the Scottish Parliament and the Northern Ireland Assembly.

In February this year, there were approximately 5,000 permitted drone operators in UK airspace. The Department for Transport predicts that there will be some 17,000 commercial drone operators in the United Kingdom by 2024, and another study predicts that there could be 76,000 drones operating in UK airspace by 2030.

Unmanned aircraft are being used to great positive effect across a range of industries and sectors. However, on the downside, unmanned aircraft are also being used more and more in a negative or potentially dangerous way. There has been an increase in incidents of unmanned aircraft coming within unsafe distances to manned aircraft, with six such incidents in 2014 and 126 in 2018, as the Minister said.

There was a significant such incident which caused major disruption at Gatwick Airport in December 2018, although it appears that the consultation in the run-up to the formulation of this Bill all took place prior to that incident. Can the Government confirm if that was the case—a point raised by my noble friend Lord Tunnicliffe—and, if so, does that mean that they consider that no further useful information or experience could be or was gleaned as a result of the incident at Gatwick Airport by any major party affected or involved that should be reflected in the provisions of this Bill?

My noble friend Lord Tunnicliffe has set out the basis of our position in support of the Bill in principle, not least in relation to Parts 1 and 2. Most of my comments will be directed at Part 3, on the new powers in relation to the use or misuse of unmanned aircraft. The current regulatory framework for unmanned aircraft is provided for in the Air Navigation Order 2016 and the Aviation and Maritime Security Act 1990. The use of an unmanned aircraft in a manner designed to cause disruption or harm is, not surprisingly, prohibited, and it is currently also an offence to endanger aircraft with an unmanned aircraft, for drone pilots to fly drones near people or property, and for drone pilots not to keep drones within line of sight. Since July 2018, all drones have been banned from flying above 400 feet across the United Kingdom and within 1 kilometre of protected airport boundaries. Since the end of last November, it has been a legal requirement for all drone operators to register themselves with the Civil Aviation Authority and for drone pilots to complete an online pilot competency test. I am not clear whether the not flying within 1 kilometre of protected airport boundaries has now been extended; perhaps the Government could clarify the point, at least for my benefit.

Unmanned aircraft offences under the 2016 Air Navigation Order are mainly summary-only offences, which also means that the existing entry and search powers applicable to indictable offences cannot be used. Part 3 of the Bill develops the regulatory framework for unmanned aircraft to address the issue of misuse of such aircraft. The police are to be given powers to ground unmanned aircraft, to stop and search in specific circumstances, to enter and search under warrant, and to issue fixed penalty notices in certain situations. My noble friend Lord Campbell-Savours has just raised the issue of powers in respect of confiscation and has asked a question on that score. Powers are also given to enable the use of counter-unmanned technologies to prevent the use of unmanned aircraft to commit certain offences under existing legislation.

The Bill contains 28 delegated powers, nine of which are Henry VIII powers, to which my noble friend Lord Tunnicliffe referred. Five of these Henry VIII powers concern the provisions in Part 2 regarding air traffic services and four relate to the provisions in Part 3 regarding unmanned aircraft. The Government have stated that these delegated powers, including all the Henry VIII powers, are necessary and justified. That may of course be the case, but at this stage it would be helpful if, prior to Committee, the Government could give their reasons for saying that the use of Henry VIII powers in each of the nine cases is unavoidable or is essential to avoid unacceptable and unnecessary delay or difficulty.

I mentioned earlier the increase in the number of incidents of unmanned aircraft coming within unsafe distances of manned aircraft. What Government evaluation has been carried out of the outcome of a collision between a drone and a manned aircraft —an issue raised by my noble friend Lord Whitty? Further, what steps have been or are being taken in the light of that evaluation? How serious is such a collision likely to be and how serious could it be? Likewise, what evaluation has been made of the likelihood and

consequences of a drone being sucked into a jet engine of a manned aircraft? Aviation law provides for a minimum separation distance between aircraft to address the risk from wake turbulence. What is the minimum wake turbulence separation between drones and aircraft? Do the terms of this Bill apply to a greater or lesser degree to all unmanned aircraft or only unmanned aircraft within specified weights and sizes?

The Airport Operators Association has called for mandatory geofencing software in drones and the mandatory identification of drones to help airports identify genuine threats to safety. What is the Government's response to the AOA on this?

The Bill gives a police officer the power to require a person to ground an unmanned aircraft if the officer has reasonable grounds for believing that the person is controlling the unmanned aircraft. Is it the Government's view that any unmanned aircraft that is off the ground must, by that very fact, have a person controlling it at all times while it is off the ground, and thus fall within the terms of this provision in the Bill? Are there any circumstances in which it could be argued—as the noble and gallant Lord, Lord Craig of Radley, mentioned—that, at a particular point in time, nobody is controlling an unmanned aircraft that is off the ground?

In addition, what powers are available in this regard if the unmanned aircraft is being controlled by a person operating it from outside the United Kingdom or from within our coastal waters? Does this Bill, as I assume, not address that situation in view of the requirement, which I believe remains, that an unmanned aircraft must always be in the line of vision of the operator?

Schedule 10 deals with fixed penalties for offences relating to unmanned aircraft, but then states:

"The Secretary of State may, by regulations, prescribe offences as fixed penalty offences for the purposes of this Schedule."

I believe that the Government have already said that one such offence might be operating a drone too close to a building without realising it. Can the Government, prior to Committee, give some further examples of the kind of offences that it is intended should be dealt with by a fixed penalty notice rather than by the alleged perpetrator being brought to court?

Schedule 10 refers to lack of intent. Does that mean that under the Bill a person endangering an aircraft, manned or unmanned, through carelessness or lack of knowledge or training could be given a fixed penalty on the basis that there was no evidence of any intent to endanger an aircraft? If that is the case under Schedule 10—at the moment I assume that it is not—that would appear to go against existing general aviation rules that apply to everyone, which provide that:

"A person must not recklessly or negligently act in a manner likely to endanger an aircraft, or any person in an aircraft."

Will all police officers be trained to be competent—the key word there is "all"—to apply the terms of this Bill in relation to unmanned aircraft? What additional resources do the Government consider that the police will need to be able to use the powers conferred by this Bill to maximum effect?

On the subject of additional resources, what impact do the Government consider that this Bill will have on the responsibilities and workload of the Civil Aviation Authority? Will it be provided with additional resources and, if so, what resources—or is it the Government's view either that the Civil Aviation Authority already has slack or that, while some parts of the Bill increase workload and responsibility, other parts reduce the workload and responsibility of the Civil Aviation Authority?

The Police Act 1997 enables named public authorities to authorise property or wireless telegraphy interference where it is considered necessary to prevent or detect serious crime. Serious crime is defined in the Act in a number of ways, including by reference to offences for which a person

"could reasonably be expected to be sentenced to imprisonment for a term of three years or more".

In reality, various offences involving unmanned aircraft have not involved sentences of imprisonment for three years or more. Other offences, including offences under prisons legislation relating to conveying articles into prisons, have maximum sentences of less than three years. As a result, unmanned aircraft may be used to commit offences that would not constitute a serious crime as defined in the Police Act 1997, with its reference to

"reasonably be expected to be sentenced to imprisonment for a term of three years or more".

Consequently, the statutory power of named public authorities to authorise property interference or interference with wireless telegraphy that would otherwise be unlawful is compromised.

To overcome this, the Bill provides, through an amendment to the relevant section of the Police Act 1997, for the authorisation of property interference and interference with wireless telegraphy when certain offences have been committed using an unmanned aircraft. Why have the Government proposed dealing with the matter in this way? Why have they, in effect, either said that unmanned aircraft offences are not actually serious offences as currently defined under the Police Act 1997 with the expectation of imprisonment for three years or more, or, alternatively, decided that for authorising property or wireless telegraphy interference in respect of offences using an unmanned aircraft, the definition of serious crime has been so lowered that it does not apparently include any reference to a reasonable expectation of a certain term of imprisonment for the offence which the interference being authorised is designed to prevent or deter?

Since offences involving the misuse of unmanned aircraft can have potentially very serious consequences, why have the Government decided that the threshold for authorising property or wireless telegraphy interference should be lowered in this way to include apparently minor offences involving the use of unmanned aircraft as well? Surely the Government's efforts should be directed towards more appropriate terms of imprisonment being applied than appears to be the case now, at least for offences involving the use of unmanned aircraft which constitute a threat to air safety.

Likewise, the provisions of Schedule 8 on the power of a constable to stop and search people or vehicles would appear to cover suspicion of not just serious crime but non-serious crime. Could the Government say whether that is the case, and indicate in specific

[Lord Rosser]
terms the lowest level of offence, or suspected offence, against which the stop-and-search powers in Schedule 8 could be exercised by a police officer? That information would be helpful prior to Committee.

My noble friend Lord Whitty raised a number of further measures that could be included in the Bill, such as a criminal offence of weaponising a drone; an offence of modifying a drone to disable built-in safety features; bringing drugs and alcohol rules in line with those for manned aviation; a minimum age for operating a drone; and a requirement to register each unmanned aircraft, as well as the operator. Similar and other points and questions have been raised by other noble Lords, including my noble friend Lord Tunnicliffe. I hope that the Government will be able to respond to them all, either now or before Committee.

4.56 pm

Baroness Vere of Norbiton: My Lords, I thank all noble Lords who have participated in today's wide-ranging debate. The Government will respond to all the questions raised—unfortunately, probably not all today, but I will endeavour to get a communal letter out to all noble Lords who have participated so that, in advance of Committee, we have provided the correct information. The quality of contributions has been significant, and I will try to rattle through as many of the issues raised as I possibly can.

The noble Lord, Lord Tunnicliffe, my noble friend Lord Naseby and other contributors wondered whether the Government have been too complacent about drones and whether the timetable was sufficient to get the legislation to your Lordships' House. There has of course been an election, and various other hiatuses in the progression of legislation through Parliament. However, that relates only to this Bill, and the Government have been absolutely on top of making sure that appropriate changes have been made to the Air Navigation Order 2016 and to previous air navigation orders. Legislatively, the Aviation and Maritime Security Act has been in place for many years, so regulations have been in place. The Bill before your Lordships' House today gives the police powers to enforce regulations that have been in place for some time.

If that were not enough, we now have more regulation coming from the EU in the form of a delegated Act and an implementing Act. The delegated Act deals with product specifications for drones and the implementing Act deals with drone registration and operator elements, such as we in this country have already put in place. I therefore believe that the regulatory framework is there for us to use. Now, as a Government, we need to make sure that the police have ability to take that forward.

A number of noble Lords noted that the police powers were originally consulted on in a Home Office consultation that came out and was completed before the Gatwick incident. I reassure noble Lords that we have of course been in touch with members of the police force around Gatwick and, indeed, all over the country to make sure they are content with the powers in the Bill. We believe that they are. We have a close relationship with them, so they have been involved since Gatwick in making sure these powers are appropriate. Of course, we still meet with the police and other stakeholders to discuss these matters in general.

Stop and search was noted by some as being in the previous Home Office consultation. Not only have we been discussing this with the police; a cross-government working group also looked at stop and search powers. It is also worth noting that the cross-government working group agreed that the focus of the powers should not only be directed towards aviation and airports but be applicable to other areas such as prisons, which should lead to greater security. Of course, the world of drones and airspace change never stops, so we will continue to review the legislation to ensure it remains fit for purpose, particularly for drones. However, we cannot delay any longer and I believe that the Bill is a good way to take this forward.

There are important elements of the product standards that came in with the EU regulations on 1 July, for which there is a three-year transition period. They are electronic conspicuity, meaning that each drone will be discoverable and identifiable, which will help as unified traffic management progresses; and geo-awareness, which is already in legislation and therefore does not need to be added to the Bill.

A number of noble Lords have talked about the important issue of aviation and the environment. It is all very well talking about quicker, quieter and cleaner journeys, but not if the latter is not the case. If we can sort out our airspace, we believe that fuel burn from aircraft will be reduced by 20%. That is already a 20% reduction in carbon. More broadly, aviation needs to play its part in the UK reaching its net-zero target. We are carefully considering the recent aviation advice from the Committee on Climate Change, and we will shortly publish for consultation our position on aviation and net zero. That builds on the work we did with the aviation strategy 2050: we consulted and gained an enormous amount of feedback on what we should be doing with our aviation sector. We will take that forward.

It is not just carbon that is important; it is also about air quality. The industry is looking at reducing airport-related emissions, given that airborne emissions account for a very small percentage point of air quality concerns.

The noble Lord, Lord McNally, and my noble friend Lord Davies of Gower mentioned noise, an incredibly important and much-underappreciated element of the airspace modernisation programme. Modern aircraft can take off and land using much steeper angles of departure and arrival, so we can reduce the overall amount of noise experienced by householders. Airports are also beginning to use performance-based navigation, which means there are ways to direct planes to at least give respite to certain communities during the day. The Government take noise very seriously. We set up ICCAN at the beginning of last year to look more carefully at what we must do about airport noise and its impact on communities.

Turning to the Bill itself, the noble Lord, Lord Rosser, mentioned the number of delegated powers in it. I agree with him: when I saw it, it fair took my breath away. However, I have been through each of those

powers with a fine-toothed comb and I am convinced that this is the most effective way to provide these powers. I say to all noble Lords who are interested in the delegated powers that, following the Government's report, the DPRRC did not have any issues to raise with the House after reviewing those powers. I would be very happy to set up a specific briefing: the Bill puts new schedules into other Acts—for example, the Transport Act 2000—so the entire framework is a little complicated. I am convinced that even the Henry VIII powers have a rightful place in the Bill, but I am very happy to help wherever I can.

With reference to the devolved Administrations, the section of the Bill relating to activities around prisons is a devolved matter in Scotland and Northern Ireland. My department has written to both nations and the officials are currently liaising with their counterparts regarding the next stage of the process. We will continue to work very closely with them.

Turning to airspace change, mentioned at length by my noble friends Lord Goschen and Lord Naseby, and the noble Lord, Lord Tunnicliffe, this is a complicated area. I will commit here and now that I am very happy to organise a briefing on airspace in general, to provide the context required to properly understand the powers that are being asked of your Lordships' House throughout the passage of this Bill.

The noble Lord, Lord Tunnicliffe, asked whether airspace change was nationally controlled. It is nationally mandated and nationally organised. The point about airspace change is that there are many layers, a little like an onion. Various people will be involved at various stages, but it is critical that given the change to the structure of CAP1616—the CAA's process for airspace change—the amount of consultation and the number of stakeholders that are consulted within airspace change proposals has increased. I reassure the noble and gallant Lord, Lord Craig of Radley, that the military is at the heart of that. We have commercial aircraft, civil aircraft, military aircraft and general aviation, and local communities also have a significant part to play in responding. When I was—for at least five minutes last year—Aviation Minister, I chaired the Airspace Strategy Board. That was always a pleasure, because it brings together at a ministerial level civil aviation, general aviation, the military, the airports and the airlines. It is a good forum for discussing airspace change and how to make it as effective as possible. I reassure noble Lords that there is an over-arching control at the top in terms of getting people's feedback in.

Baroness Randerson (LD): I thank the Minister for her detailed explanation. In preparation for this debate, which I have not spoken in, I asked the CAA about the control of airspace. I concur with the Minister that it is complicated. However, the appeal process for an aerodrome—as the Bill puts it—that wants to appeal against the CAA's decision, goes to the Competition and Markets Authority. I am interested to know how the Government alighted upon the CMA as the appropriate body for appeals.

Baroness Vere of Norbiton: I thank the noble Baroness for her question. I shall have to write to her because it involves a level of detail into which I cannot go today.

I will skip over organisations such as ACOG, which has been set up by the CAA and will co-ordinate the airspace changes master plan. Again, I propose that my team produces a short two-page briefing and then we can have a verbal briefing thereafter.

My noble friend Lord Davies of Gower referred to the airspace changes and the process that the CAA uses. I have mentioned CAP1616, which was updated by the CAA in 2018 and is not due for change just yet. However, the point is that no airspace changes proposals have completed CAP1616 yet because it takes two to three years and involves seven stages and multiple consultations. It is very thorough.

The noble and gallant Lord, Lord Craig of Radley, mentioned specifically that the MoD needs access to airspace to train pilots. Of course it does, to maintain the competency of the UK's defence needs. The MoD acts as an airspace change sponsor and therefore is responsible for the airspace around its own bases.

My noble friends Lord Goschen and Lord Kirkhope both mentioned general aviation and the reclassification of airspace. The Secretary of State has directed the CAA to develop and publish a national policy for the classification of UK airspace and to keep classification under regular review. The CAA has launched a consultation to identify volumes of controlled airspace in which the classification could be amended to better reflect the needs of all airspace users. This consultation closes on 3 March and the CAA will then shortlist volumes of airspace for potential amendments. Overall, the CAA has a responsibility to minimise the amount of controlled airspace.

The cost of airspace change is also important. It can vary from a few hundred thousand pounds to up to £5 million for some of the largest airports. The Government recognise that there may be occasions when a small airport requires financial assistance to carry out some aspects of airspace change, particularly if this results in airspace change in other airports and involves reaching an agreement about how it will all fit together.

The noble Lord, Lord McNally, mentioned artificial intelligence. This is not currently used in air traffic control or to fly an aircraft but it is recognised that there may be potential in artificial intelligence, particularly around aircraft safety and to reduce air traffic delays, but at the moment it is not a feature of the system.

On the third part of the Bill—"Unmanned Aircraft" —and the clause on general police powers, noble Lords will recognise that drones can be used positively. This is important and the Government are doing all they can to support the drone industry. My noble friend Lord Naseby referred to the weight limit within the drone sector and its applicability in relation to the Bill. Schedule 8—"General police powers and prison powers relating to unmanned aircraft"—does not have an upper weight limit and therefore goes above the 20 kilogram limit that usually applies to certain things, and it gives powers to a constable to ground an aircraft to stop and search, and so on. Schedule 9 gives the police powers relating specifically to the requirements in ANO 2016 and is applicable to unmanned aircraft up to 20 kilograms. The proposals relating to registration, competence and so on do not apply to unmanned aircraft of less than 250 grams.

[Baroness Vere of Norbiton]

The noble Lord, Lord Whitty, valiantly almost completed his speech. At the start of it he mentioned the EU Select Committee report in 2015. It is an important report and many of its recommendations have been implemented or are currently in the process of being implemented. The UK launched its registration and competency testing scheme for drones in November last year. To many people's surprise, the number of people who have registered with the system is higher than forecast, and I am delighted that it is doing well. More than 80,000 people have registered with the system to date and more people sign up every day.

The noble Lord, Lord McNally, mentioned that he will probably table amendments to tighten and extend the regulation of drones. The purpose of the Bill is to improve public safety through the police enforcement powers. That is the focus of the Bill; therefore, it is probably not the correct vehicle for further unmanned aircraft regulation, but the EU regulations are already in law and they will be developing our legislation. We will continue to consider whether the regulations in the Air Navigation Order are fit for purpose.

My noble friend Lord Naseby mentioned fixed penalty notices. I would be very happy to discuss this in more detail outside the Chamber. Our intention is that fixed penalty notices will be given only in relation to the most minor offences where certain conditions listed in the Bill are met. These include that no other aircraft was endangered and that no other person was harmed, harassed, alarmed or distressed. The first regulation that we put down will specify exactly what will be subject to a fixed penalty notice. It will be an affirmative regulation and will therefore be debated in your Lordships' House.

A question was asked about whether stop-and-search demographics will be available for those subject to a stop and search under these powers. Yes, they will be published by the Home Office in the usual way.

Police training and guidance are critical. Guidance is being drafted at the moment with the assistance of the police. It will be given to the College of Policing as well as to individual police forces. Noble Lords will be aware that the *UK Counter-Unmanned Aircraft Strategy* was published in October 2019. A specific unit is being set up—the new national police counter-drones unit—which will be critical in advising police forces how and when to utilise the powers. These are the specialists mentioned by the noble Lord, Lord Bradshaw.

I am well aware that I am running out of time. I have committed to write, and I will. I want to finish on counter-UAV technology because it is important and something that some noble Lords might imagine would be in the Bill. The issue is that counter-UAV technology is under development. There are two types. The first is to detect, track and identify. It tries to find the drone so that the police know where it is. At the moment, systems are being tested by the CPNI and a list of approved systems is being published, but these systems are a work in progress.

Lord Campbell-Savours: On confiscation, will the Minister discuss it with her officials so that we are informed prior to Committee?

Baroness Vere of Norbiton: I thank the noble Lord for his intervention. I was going to get to that, but if he does not mind I will ensure that there is a full discussion of the point he raised when I write, and it will be soon.

The second is effector technology: how do you take the drones out of the sky? That is where the destruction of property and the wireless telegraphy powers in the Bill are critical. When we have effector technology that works we will need these powers to enable the drones to be taken out of the sky to prevent them doing harm.

I thank all noble Lords who have taken the time to speak in today's debate. I am looking forward to Committee and to being able to share more information with noble Lords shortly.

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

Huawei: UK's 5G Network

Statement

5.19 pm

The Secretary of State, Department for Digital, Culture, Media and Sport (Baroness Morgan of Cotes) (Con): My Lords, I shall now repeat in the form of a Statement an Answer given earlier today in the other place by my honourable friend the Minister for Digital and Broadband on the security of the telecoms supply chain. The Statement is as follows:

"New telecoms technologies and next generation networks such as 5G and full fibre can change our lives for the better. They can give us the freedom to live and work more freely; they can help rural communities to develop thriving digital economies; and they can help the socially isolated maintain relationships. So the security and resilience of the UK's telecoms networks is of paramount importance.

The UK has one of the world's most dynamic digital economies, and we welcome open trade and inward investment. However, our economy can prosper and unleash Britain's potential only when we, and our international partners, are assured that our critical national infrastructure remains safe and secure.

As part of our mission to provide world-class digital connectivity, including 5G, my department carried out a cross-Whitehall evidence-based review of the telecoms supply chain to ensure a diverse and secure supply base. That review's findings were published in July 2019 and set out the Government's priorities for the future of our telecommunications. These priorities are strong cybersecurity across the entire telecommunications sector, greater resilience in telecommunications networks and diversity across the entire 5G supply chain.

The review considered the entire UK market position, including economic prosperity, the industry and consumer effects, and the quality, resilience and security of equipment. However, in July 2019 it did not take a decision on the controls to be placed on high-risk vendors in the UK's telecoms networks. Despite the inevitable focus on Huawei, this review was not about one company, or even one country, and we would never take a decision that threatens our national security or the security of our allies.

The Government's telecoms supply chain review is a thorough review into a complex area and it has made use of the best available expert advice and evidence. Its conclusions on high-risk vendors will be reported once ministerial decisions have been taken. The National Security Council will meet tomorrow to discuss these issues. This work is an important step in strengthening the UK's security framework for telecoms and ensuring the rollout of 5G and full-fibre networks. I know that honourable Members on all sides of the House feel strongly about this issue, and this Government will make a Statement to this House to communicate final decisions on high-risk vendors at the appropriate time. We will always put national security at the top of our agenda."

My Lords, that concludes the Statement.

5.22 pm

Lord Griffiths of Burry Port (Lab): My Lords, I am very grateful to the noble Baroness for repeating the Answer to the Urgent Question given in the other place. She will be aware, as we all are, that there has been so much speculation on this matter for so long that the prospect, even tomorrow, of having something that might be direct and to the point and show us the way forward is to be welcomed.

We have allowed the development of a situation that seems to be becoming unsustainable. We have not completed the rollout of 4G, for example, and the present Government have to improve the universal service obligation for broadband that previous Administrations have dragged their heels on, or at least not delivered on. However, at the same time, operators are already buying into 5G provision, some without knowing at all how much they can rest in the certainty that their investment will be rewarded. The head of MI5 has said that he is confident that US intelligence-sharing with the UK will not be jeopardised if Britain uses Huawei technology in future 5G mobile phone networks, and there are such phone networks that have been using Huawei technology for some time.

In the other place, the colleague of the noble Baroness, in answering the Question, hid behind the fact that we have to wait for tomorrow, and of course mañana is what we all feel obliged to wait for. We will be interested to see how the noble Baroness dresses up "tomorrow" and gives us lots of assurances.

The fact is that we need certainty that 5G is the way forward, but the United States is putting all kinds of pressures on us that have little to do with the business case. Can the noble Baroness therefore give us the assurance that tomorrow everything we hope for today will be delivered?

Baroness Morgan of Cotes: I thank the noble Lord very much for his measured response on this issue. Obviously I cannot assure him that everything he hopes for tomorrow will be answered, but I certainly expect to come back to this place with an update for this House, and my colleagues will do that in the other place as well. I join the noble Lord in saying that I think a decision on this matter, should a decision be taken tomorrow—I am sure that noble Lords who have been in government or worked with government will understand that I do not want to get ahead of myself in saying that the decision will be taken—will be welcomed.

The noble Lord is right to say, and I think Members of this House will agree, that improving connectivity across the UK is very important for all residents. He is right to say that the rollout of 5G is already taking place and that those involved in that rollout obviously need guidance and a government view on who to involve in it. While I made it very clear in the Answer that this is not just about one company, Huawei is of course already involved in the 4G rollout. I am hesitant to say as a new Member of this House "Watch this space", but I am afraid that that is probably going to be the basis of my answers today.

Lord McNally (LD): My Lords, this is an extraordinary Statement, not least the part that states:

"The National Security Council will meet tomorrow to discuss these issues."

Then why make a Statement today?

Is the Minister aware that we, like everyone in this House, always put national security at the top of our agenda? However, to claim that despite the inevitable focus on Huawei this review is not about one company or even one country becomes a little difficult to swallow, given all the air traffic around about the activities of the US Government to influence our Government's decision. I therefore want to make sure that the Government are sticking by the advice they are getting from their security services and their own best-informed sources? We must recognise that we have to decide whether this is a decision about "America First" or about our own best interests. This is supposed to be the golden age of co-operation between the UK and China across a wide range of issues. We have to be able to make security decisions in our way and in our national interest while protecting those wider interests.

Baroness Morgan of Cotes: I thank the noble Lord. In the interests of time, I will say briefly that I am having to give this Answer today because an Urgent Question was asked in the other place so quite rightly we are answering that in both Houses. I agree with him that it is quite correct that it is the UK Government who are taking this decision. There are a number of factors in making such a decision. We will rely on the best expert advice from our services that we have, but we will make the decision as a Government in the interests of this country.

Lord Howell of Guildford (Con): My Lords, I know the final decision is due to come tomorrow but my noble friend's Statement speaks about diversity, as indeed did the telecoms review in the summer. Can she reassure us that diversity really can be maintained and dependence on a vendor, particularly a high-risk vendor, avoided? If an integrated system can be assured technically, there seems to be not much of a problem to worry about and some of the American threats seem rather empty, particularly because, while we need a trade deal

[LORD HOWELL OF GUILDFORD]
eventually, getting one is not of high urgency because we already have vast trade with the US under the present system.

Baroness Morgan of Cotes: I thank my noble friend, who is right to pick up on diversity. Diversification of supply is a critical issue in this whole debate. Obviously I cannot pre-empt decisions that might be made tomorrow or the discussions to be had, but that is of course one of the factors. The Prime Minister has said that it would help if those who wish us to take a particular decision had a particular alternative. There are other suppliers but I hope to say more if and when a decision is taken.

Lord Alton of Liverpool (CB): My Lords, notwithstanding the anxiety of our US allies, will the Minister say something about the anxieties expressed in your Lordships' House on two occasions last week about human rights concerns and the surveillance technology that has been developed by Huawei in places such as Xinjiang, where over 1 million Uighur Muslims have been incarcerated? Will she cast her mind back to ask this question: would we in former times have made this kind of deal and opened up our technology, our security and the possibility of human rights abuses to the Soviet Union if we had known then what we knew later about what it was doing in places such as the Gulag Archipelago?

Baroness Morgan of Cotes: The noble Lord makes a very important point. I said in answer to the question just now that there will be a number of factors involved in making a decision of this importance. We will obviously take all of the advice from the services on a number of different issues. It would not be appropriate for me to pre-empt the decisions or some of the detailed factors, but I am absolutely certain that we will return to some of the issues he raised in this place.

Lord Reid of Cardowan (Lab): My Lords, I will differ from other noble Lords and say to the Minister that there is no reason why this decision should be taken tomorrow, particularly since we are on the eve of a strategic defence and security review. Does it not make more sense to discuss this issue in the context of that review, given the critical nature of our digital infrastructure for the defence and security of this country? We have waited long enough. There is no reason why we cannot wait another few months or a year to get this right, because it is absolutely critical and should be decided in context, not out of it.

Baroness Morgan of Cotes: Again, the noble Lord makes a very important point. He is right to say that all decisions, whether on this matter or other related matters such as a defence review, are interconnected. There are issues relating to our foreign policy and our wider relationships with countries around the world. He is right to say that digital infrastructure is critical. However, this decision has been under debate and discussion in this House and the other place, and more broadly, for some time. We know that, as that digital infrastructure has been rolled out, providers are looking for guidance. The noble Lord highlights one of the factors that has to be balanced in making this decision.

Baroness Falkner of Margravine (Non-Afl): My Lords, will the noble Baroness accept that while she emphasises the importance of 5G connectivity, it is the very connectivity that she talked about that will be jeopardised if we give control of our vital core services and infrastructure to a company which is controlled by the state? That is exactly what will be jeopardised. When she talks about the need for speed, will she not appreciate that we are better off waiting and getting the decision right, particularly when there are alternatives such as Ericsson, Nokia and Samsung, as well as UK-US co-operation that might deliver a more secure network in our national security interests?

Baroness Morgan of Cotes: The noble Baroness is right to highlight this. Some of the points she raises are part of the discussions between Ministers. I give her and the whole House the absolute assurance that high-risk vendors never have been and never will be involved in our most sensitive networks.

Facial Recognition Surveillance

Statement

5.32 pm

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, with the leave of the House, I shall repeat in the form of a Statement the Answer given by my honourable friend the Minister for Crime, Policing and the Fire Service in another place on facial recognition surveillance. The Statement is as follows:

"Mr Speaker, this Government are backing our outstanding police to keep our streets safe. We are delivering on the people's priorities by cutting the crime blighting our communities. That means supporting the police and empowering them with the tools they need. We have already pledged 20,000 more officers, new powers and the biggest funding increase in a decade.

Embracing new technology is also vital, and we fully support the use of live facial recognition. This can help identify, locate and arrest violent and dangerous criminals who might otherwise evade justice. Live facial recognition compares the images of people passing a camera to a specific and pre-determined list of those sought by police. It is then up to officers to decide whether to stop and speak to those flagged as a possible match. This replicates traditional police methods, such as a spotter at a football match. The technology can make the search for suspects quicker and more effective, but it must be used strictly within the law.

The High Court has found there is an appropriate legal framework for the police use of live facial recognition. This includes police common-law powers, data protection and human rights legislation, and the surveillance camera code. These restrictions mean that sensitive personal data must be used appropriately for policing purposes and only where necessary and proportionate.

There are strict controls on the data gathered. If a person's face does not match any on the watchlist, the record is deleted immediately. The innocent should have nothing to fear. All alerts against the watchlist are deleted within 31 days, including the raw footage, and the police do not share the data with third parties.

The Metropolitan Police Service told me about its plans in advance. It will deploy the technology where intelligence indicates it is most likely to locate serious offenders. Each deployment will have a bespoke watchlist made up of images of wanted people, predominantly those wanted for serious and violent offences. It will also help the police tackle child sexual exploitation and protect the vulnerable.

Live facial recognition is an important addition to the tools available to the police to protect us all and to keep murderers, drug barons and terrorists off our streets."

5.35 pm

Lord Kennedy of Southwark (Lab Co-op): My Lords, I thank the Minister for repeating the Answer given to the Urgent Question in the other place today. The Government have promised to empower the police to safely use new technologies within a strict legal framework. The announcement of automated facial recognition has been made before such legislation has been introduced and seems to be on the basis of a court ruling that is being appealed.

Further, Article 8 of the European Convention on Human Rights requires that intrusions, however justified, are in accordance with the law. With those points in mind, can the Minister confirm when the Government will introduce the necessary legislation, and can she further confirm that the technology will not be used until that legislation has been passed?

Baroness Williams of Trafford: My Lords, this was recently tested in court and the High Court found that the police were operating within the law, so we do not feel that there is any need for further legislation at this point. However, I understand that the decision is being appealed, so that is probably about as far as I can go today.

Lord Clement-Jones (LD): My Lords, I confess to being rather baffled by the Government's agreement to this. Only in September, the Metropolitan Police Commissioner said in the context of live facial recognition technology that the UK risks becoming a

"ghastly, Orwellian, omniscient police state"

with

"potential for bias in the data or the algorithm."

The Information Commissioner expressed deep concern in her last report and in her reaction to the Met's deployment. She said:

"We reiterate our call for Government to introduce a statutory and binding code of practice for LFR as a matter of priority."

The Home Office's own Biometrics and Forensics Ethics Group has questioned the accuracy of live facial recognition technology and noted its potential for biased outputs and biased decision-making on the part of system operators. The Science and Technology Committee recommended a moratorium in its report of just over a year ago. When the Minister responded to me in an Oral Question about the watchlist, that was not reassuring either: the watchlist is extensive. Is the answer not a moratorium as a first step, to put a stop to this unregulated invasion of our privacy? I commend to the Minister in that context my Private Member's Bill, due to have a First Reading next week.

Baroness Williams of Trafford: My Lords, I wish the noble Lord's Private Member's Bill all the very best when it comes to your Lordships' House—without pre-empting, obviously, its outcome.

As for inaccuracy, LFR has been shown to be 80% accurate. It has thrown up one false result in 4,500 and there was no evidence of racial bias against BME people. I should point out that a human operative always makes the final decision; this is not decision by machine.

Lord Marlesford (Con): My Lords, the lamentable decline in security on our streets and elsewhere makes it essential that every modern technique to increase security is used. Will the Minister agree to a seminar or something so that those noble Lords who are particularly interested in this subject may be given a briefing in some depth?

Baroness Williams of Trafford: That is a very constructive suggestion. I am happy to arrange a briefing on this technology for any noble Lords who wish to have one.

Baroness Jones of Moulsecoomb (GP): My Lords, I declare an interest, as I have issued judicial review proceedings against the Home Office and the Metropolitan Police regarding the use of facial recognition technology, about which I have a huge number of concerns. I would have thought that the Minister would herself be concerned about its inaccuracy. I do not recognise the figures cited. I have a host of other trials, which the police undertook, where it failed abysmally. It just does not work and is surely a waste of police time. For example, at a Welsh rugby match, there were 10 alerts on the system for a wanted woman; none was accurate. This is an utter waste of police time until the manufacturer gets the systems right.

Baroness Williams of Trafford: The noble Baroness will understand if I do not discuss her ongoing JR against the Home Office. I do not know where the noble Baroness got her accuracy figures from. On the point about bias, the Met's original trials found no statistically significant differences in identifying different demographics, and Cardiff University's independent review of South Wales Police's trials found no overt discrimination effects. I repeat the figures I gave earlier: there is a one in 4,500 chance of triggering a false alert and over an 80% chance of a correct one, but I would be interested to see where the noble Baroness got her figures.

Lord Campbell-Savours (Lab): My Lords, I strongly welcome the Government's approach to this matter, but why is facial recognition an acceptable form of

[LORD CAMPBELL-SAVOURS]
identity in the case of surveillance in combating crime yet it, and other personal identifiers, are unacceptable in the case of a national identity card, which could be equally important in combating crime?

Baroness Williams of Trafford: I like the way the noble Lord got the identity card in; I was wondering when he was going to deploy it. The Question is on AFR, which we can use to identify criminals because it is a unique biometric, which an identity card may not necessarily be. I am not going to get drawn on identity cards today, but I congratulate the noble Lord on managing to get them in.

Lord Paddick (LD): My Lords, I take the Minister back to my noble friend's question about the Information Commissioner's Office statement in October 2019, which said:

"We reiterate our call for Government to introduce a statutory and binding code of practice for LFR as a matter of priority."

Why are the Government putting the cart before the horse and allowing live facial recognition before a statutory, binding code of practice is in place?

Baroness Williams of Trafford: I agree with the noble Lord that the ICO criticised some areas. However, last Friday it acknowledged a number of improvements. LFR is used for a policing purpose; it is used to detect serious criminals and might be used to find missing people. The framework in which it operates includes common-law powers, data protection, human rights legislation and the surveillance camera code.

Lord Faulks (Non-Afl): My Lords, is it not important to make a distinction between the use of modern technology to assist in the possible identification of an offender and its evidential status? That distinction is very important.

Baroness Williams of Trafford: My noble friend is of course absolutely right.

Lord Harris of Haringey (Lab): My Lords, given that these techniques are used not just by police forces but by many private sector organisations, will the noble Baroness give us a very clear assurance that we will not face a situation in this country where our police and security forces are operating in a more restrictive environment than private sector organisations?

Baroness Williams of Trafford: The noble Lord makes a very good point and I think I know to which cases he is referring. The police must be able to use the technology available for policing purposes, but within the framework I have just discussed.

Baroness Ludford (LD): My Lords, the ICO statement of last Friday reiterated the call for the Government to introduce a statutory, binding code of practice, so there has been no change since October. Can the Minister tell us whether she believes the comment in the Statement, "The innocent should have nothing to fear"? Is she proud of that comment by the Government? It really is a complete red herring in terms of data protection and privacy rights.

Baroness Williams of Trafford: No, I reiterate that statement.

Reserve Forces and Cadets' Associations

Question for Short Debate

5.45 pm

Asked by ***Lord De Mauley***

To ask Her Majesty's Government what assessment they have made of the contribution of Reserve Forces and Cadets' Associations to the work of the Reserve Forces and the cadets, to national defence and to the Armed Forces covenant.

Lord De Mauley (Con): My Lords, I start by declaring my interest as president of the Council of Reserve Forces' and Cadets' Associations. The forerunners of today's Reserve Forces' and Cadets' Associations were established by Haldane in 1908 as County Territorial Associations. Through a series of Acts of Parliament they acquired a tri-service role, and in 1967 moved to their current regional structure, establishing a national council. In 1996 they gained their current name and in 2014 they were given the role of setting up an external scrutiny team to provide an annual independent report to Parliament on the state of the reserves. Today, the RFCAs also maintain and develop most reserve and cadet properties, other than those on regular bases, and sea cadet sites, which are charitably owned.

The RFCAs provide a voice for and a range of services to the Reserve Forces, the cadet movement and, more recently, wider defence. They are voluntary organisations, run by 13 regional committees representing their members, who are mostly unpaid volunteers from a wide range of backgrounds, including business, legal, education, local and national government, agriculture, banking, accountancy, property and military, both ex-regular and reserve. Collectively, they willingly give their time to further the interests of the reserves, the cadets and wider defence, and have considerable local influence networks. Each regional RFCA has a paid staff headed by a chief executive, appointed by its committee and reporting to it. The regional chairs sit on the national council, which is supported by its own chief executive and small staff. Because of their membership, RFCAs have critical links to business through regional business groups. They also have a range of equally important links to civic society through their membership and through 13 lords-lieutenant, who are their presidents.

As I mentioned earlier, the RFCAs maintain and develop most reserve and cadet properties—about 5,000 of them around the whole of the United Kingdom—and provide administrative support to the Army cadets. Recently, defence has given the RFCAs an additional, important role to deliver wider engagement with society and to encourage businesses and civic institutions to sign up to the Armed Forces covenant.

This recognises that the RFCAs enjoy a degree of immersion in the civilian world which the MoD and Armed Forces lack. They do all this with an annual budget of about £112 million.

Perhaps partly because they are apolitical, the RFCAs have been especially successful in working with the devolved Administrations, managing to maintain consensus on matters where direct approach from the MoD could easily lead to friction. The RFCAs are currently unclassified, arm's-length bodies, and Cabinet Office guidelines stipulate that it is good practice to apply a tailored review process to such bodies.

Accordingly, the RFCAs have undergone such a process. This review, the report of which is currently in draft, concludes that the RFCAs offer excellent value for money—a striking point, given the persistent weaknesses in the MoD's own track record in managing property. It makes a number of detailed recommendations, many of which I accept, on matters such as updating service level agreements with the single services, the proper safeguarding of cadets, and so on. Its main concern appears to be the proper safeguarding of taxpayers' money, something I also think is extremely important.

However, the report points out that the structure of the RFCAs, with no statutory basis for the council, is anomalous and—to tick the right boxes—suggests a fairly dramatic upheaval. Despite conceding the success of the RFCAs across their roles, the RFCA review proposes to put in place an arrangement under which an executive committee headed by the national chief executive would replace the council as the overall authority. National and regional councils would become purely advisory organisations. All appointments would be via an OCPA-compliant process—the Office of the Commissioner for Public Appointments—instead of election by the membership. In many cases, willing volunteers would be replaced by salaried individuals. The membership would be disfranchised, though allowed to call themselves "associates".

RFCAs are strictly non-party political, but there is an analogy here with a political party or a national charity. Suppose the national chief agent were put in charge, with regional agents reporting directly to him or her and the volunteer officers consigned to an advisory role. The loss of talent and commitment at all levels can easily be imagined. Yet, at a time when the Armed Forces are arguably more culturally isolated than ever before, this one strong defence bridgehead into civic society is threatened, critically risking damage to the delivery of the covenant.

Were the draft report's proposals to go through, they would drive a coach and horses through valuable links to civic society which are at the heart of the Armed Forces covenant—one of the few remaining areas of policy where there is a broad consensus across Parliament and the devolved Administrations. It would also appear to typify the attitudes which the Prime Minister's aide Dominic Cummings has firmly in his sights, as he says in his blog:

"The government system … is a combination of, inter alia: 1) extreme centralisation of power among ministers, officials … 2) extremely powerful bureaucracy (closed to outside people and ideas) defined by dysfunctional management incentivised to spew rules rather than solve problems".

The draft report on the RFCA review proposes a solution to a purely bureaucratic issue by pulling down a successful structure and pulling up some of defence's last remaining roots in the civilian world, which serve it so well. The perceived weaknesses can be addressed in a straightforward way without the wholesale change proposed, as has been explained to those driving the changes, with the council of the RFCAs being a legal entity under primary legislation. The RFCAs are happy to see the council put on a statutory footing; indeed, this would require much simpler amendment to primary legislation than the much more drastic surgery proposed under the review. The national and regional councils should remain volunteer-led, rather than a de facto extension of the MoD. The changes proposed in the review would, in my judgment, fatally undermine the very strengths that the report extols and seeks to preserve.

As Sir Roger Scruton, the philosopher who, so sadly, recently died and whose funeral took place on Friday, once said,

"good things are easily destroyed, but not easily created … the work of destruction is quick, easy and exhilarating; the work of creation slow, laborious and dull."

5.55 pm

Lord West of Spithead (Lab): My Lords, I thank the noble Lord, Lord De Mauley, for bringing this issue to our attention and for having it debated this evening.

Although no final decisions have yet been made, it is quite clear that there is a head of steam building up to replace the current devolved structure of the RFCAs and the national council with a centralised system. As the noble Lord said, this would involve an executive committee with a chief executive, and the national and regional councils would become purely advisory. I find this somewhat surprising, bearing in mind the Government's desire to devolve in most areas of their endeavour. As I understand it, the report mentioned by the noble Lord, Lord De Mauley, says that the current RFCAs offer excellent value for money. Can the Minister confirm that that aspect of the report is absolutely correct—that they provide very good value for money?

The phrase "If it's not broke, don't fix it", rather jumps to mind. It is quite clear that the current arrangements do not fit neatly into the ordered, centralised organisational structures so beloved of our splendid Civil Service, but sometimes something unstructured is just what is needed. I believe this is one of those times.

One of the great strengths of the current system, as has been referred to, is that it is staffed by unpaid volunteers: local people from that region who love the military and know a great deal about local conditions. Headed by lords-lieutenant, they embrace people, as has been said, with a wide range of backgrounds: education, local government, banking, accounting, property, and so on, all brought together by their belief in the Reserve Forces and cadets, and love of the military. They feel that they can make important decisions—and indeed they can.

I am particularly nervous about the establishment of an all-powerful executive committee with appointees undergoing the OPCA-compliant process. I fear that

[LORD WEST OF SPITHEAD]
those seeking these slots, as has been mentioned, would expect to be remunerated, and that it would become overpopulated by quango kings and queens with no deep love of reserves and cadets, and limited local links to vast swathes of the country.

It cannot be beyond the wit of man to find a way of resolving the bureaucratic problems of the present system without destroying the current structure that is so important in maintaining the crucial connections of the reserves and cadets to the societies that, in the final analysis, they serve. In particular, the north will not be pleased that, once again, London becomes the focus. Can the Minister please pass on these concerns to those conducting the review?

5.58 pm

Lord Houghton of Richmond (CB): My Lords, I welcome this short debate on the health of the nation's Reserve Forces. I declare a specific interest in reserve matters, based on my leadership of the 2011 independent commission that reviewed the country's Reserve Forces as follow-on work to the 2010 defence review.

It is worth recalling that the context of the review that I led in 2011 was a set of Reserve Forces in accelerating institutional decline. Our reserves at that stage were primarily being used as individual operational augmentees for service in Iraq and Afghanistan. We were failing to make an attractive offer to encourage reserve service more generally. The reserves still had very much of a Cold War feel about them; they were still structured for supporting major intervention operations. The potential utility of the reserves for modern homeland security, UK resilience, cyber defence and stabilisation was not at that stage remotely recognised. Perhaps more seriously, at that stage we were not exploiting either reservist talent or the nation's volunteer ethos to the full. We were failing to create a more cost-effective regular/reserve manpower balance, and we were actively contributing to the erosion of the vital links between our Armed Forces and wider society.

Why did this situation come about? To an extent at least, because, at a time of scarce resources and high operational demand, what I might call central authority saw the reserves as assets not to be sustained but plundered. Some might recall that reservist pay was taken as a savings measure. Alone among developed nations at that time, we viewed reserves as a quaint, historical, inefficient luxury, not the vital expression of society's voluntary contribution to national security.

So, although I know little about the detail of the review that has stimulated this short debate, like other noble Lords I am instantaneously made anxious by it. I understand that, as others mentioned, the review concludes that the current devolved mechanism for the governance of reserves and cadets—the RFCAs—offers excellent value for money. Moreover, as we have heard, defence has entrusted the RFCAs with additional roles to deliver wider engagement with society and the business and civic worlds.

However, somewhat remarkably, the review also wants to neuter the local autonomy of the RFCAs. It wants to supplant the benefits of a regionalised, delegated model with a centralised system, or so I am led to believe. Why? As far as I can ascertain, as has been pointed out, it is purely to satisfy the bureaucratic requirement for the senior governing body of reserves and cadets to be put on a statutory basis. That is fine, but why does this need a dramatic upheaval of the entire decentralised model?

My fear is that a bureaucratic nicety involving a minor issue of governance is being used as a vehicle to centralise the governance of reserves and cadets. In doing so, it risks adopting a system devoid of localised sensitivity and insight, in turn risking a return to a mindset that, as I well remember, nearly brought about the collapse of reserve service 10 years ago. I therefore join other noble Lords in asking the Minister whether she can reassure the House that such a risk is not being contemplated.

6.02 pm

Lord Dannatt (CB): My Lords, I also congratulate the noble Lord, Lord De Mauley, on securing time for this debate on our Reserve Forces, a subject that often gets overlooked when the focus of attention is elsewhere.

However, it is a simple fact that our Armed Forces—the Army in particular—could not have done all that they have done in recent years without a significant contribution from our Reserve Forces. During the course of the extended and very difficult campaigns in Iraq and Afghanistan, some 10% of the manpower of each successive brigade group that deployed for a six-month tour came from the Reserve Forces; in some deployments, the proportion was higher.

Moreover, some operational deployments that were hitherto conducted by regular units have been conducted by reserve units—something very much to the credit of, and demonstrative of the commitment of, our reservists. It is also worth remembering that, as our Regular Forces decrease in number and visibility, our Reserve Forces and cadets are the public face of the military. For example, in cities, towns and villages on Remembrance Sunday, it is invariably Reserve Forces and cadets that appear on parade.

The importance of our Reserve Forces up and down the country is at the heart of one of the major concerns that brought about this debate, as the noble Lord, Lord De Mauley, and other noble Lords outlined. To those closely involved with the administration and organisation of our Reserve Forces, the current governance structure of the network of Reserve Forces' and Cadets' Associations—the RFCAs—up and down the country works well. There is a strong belief that, as the noble Lord, Lord West, said, if it ain't broke, don't fix it.

However, it would appear that the Ministry of Defence believes that the RFCAs' structure is not fit for purpose and wishes to make some quite fundamental changes. The so-called tailored review of the RFCAs which is looking into these matters has concluded that there are issues around the legal status of the Council of RFCAs, the financial arrangements and the classification of the RFCAs themselves. But like other noble Lords, I question whether these are real issues or simply a commentary on the way that our reserve forces are administered and organised—a bespoke

and pragmatic process that has hitherto worked well but now does not appear to fit neatly into Cabinet Office, Treasury and Ministry of Defence templates.

On the issue of classification, as recently as 2007, the Cabinet Office concluded that the legal position of the Council of RFCAs and the RFCAs themselves was clear, stating they are properly established under the Reserve Forces Act 1996 and have Crown status. Moreover, the Cabinet Office stated that they were not a non-departmental public body with all that that entails; but now the MoD is arguing that the RFCAs should indeed become a non-departmental public body. What has changed in 12 years to cause this about turn? I would suggest that nothing has fundamentally changed about the RFCAs, although much has changed in terms of good practice. What has changed is the MoD's desire to force the RFCAs into a convenient template.

However, one must assume that the MoD's underlying concern is rooted in financial governance, as set out in the policy document entitled *Managing Public Money*. It would seem that the Permanent Secretary at the Ministry of Defence, as the overall accounting officer for defence money, does not believe that he has sufficient control over the RFCAs and so is arguing for—and perhaps even demanding—significant change. To my mind, the change being argued for is itself inappropriate and, if implemented in the manner envisaged in the tailored review, would do untold damage to the volunteer ethos of the RFCAs and weaken the sense of localism that underpins the support network of our Reserve Forces and cadets. That said, I can understand the Permanent Secretary's desire to ensure that he can fully deliver on his accounting officer responsibilities. The National Audit Office rarely takes prisoners these days, especially where defence expenditure is concerned.

However, the solution to the Permanent Secretary's problem is not the recommendations of the tailored review; instead, it should be a simple application of the MoD's own budgetary hierarchy. Were the Council of RFCAs to become a higher-level budget within an appropriate top-level budget, and the RFCAs around the country to become intermediate higher-level budgets or basic-level budgets, accountability would be ensured, sensible delegation would remain in place and local initiative and enthusiasm encouraged. I have been a top-level budget holder as the Army commander, held a higher-level budget as a divisional commander, and held an intermediate higher-level budget as a brigade commander. The system is tried and tested, works well and is understood. Would the Minister be kind enough to explain in her closing remarks why this model is not being considered for our Reserve Forces?

There is another dimension to the tailored review recommendations which shows just how out of line with reality they are. The report states that, "Consideration should be given to remunerate RFCA Board and Regional Council members to attract applicants with a diverse mix of military and professional knowledge, skills and performance." Such a recommendation is little short of downright insulting to the hundreds of volunteers in the existing RFCA structure and network who freely give of their time and expertise—

Baroness Bloomfield of Hinton Waldrist (Con): My Lords, perhaps I may remind the noble and gallant Lord that this is a timed debate and he has rather gone over his allocation.

Lord Dannatt: Of course, and I shall move on to a conclusion.

The volunteer ethos is why hundreds of men and women up and down the country are willing to give of their time freely to run the Reserve Forces organisations and structure. Does the Minister really think that paying people is the answer to a question that, to my mind, does not even exist? I do not just fear for the future of our Reserve Forces; I know that untold damage will be done to their ethos and efficiency. I urge Her Majesty's Government to think again.

6.08 pm

Lord Burnett (LD): I draw the attention of the House to my entries in the register of interests, and the whole House should be grateful to the noble Lord, Lord De Mauley, for calling this debate at such a crucial time for the Reserve Forces and cadets in the light of the proposed changes to be made to the Council of the Reserve Forces and Cadets, Associations.

I have two general points on defence which I hope the Minister will be able to deal with in her reply. First, there is a strategic defence review in the offing. Does she have a timetable for this, and what opportunities will noble Lords have to consider and debate the proposed review? Secondly, will the military covenant be given statutory force, and when will the necessary legislation be brought to the House?

On the main thrust of the debate, I am sure the whole House is united in support for the reserves and cadets, both of which link the Armed Forces with their parishes, villages, towns and cities throughout the United Kingdom. The House has heard from the noble Lord, Lord De Mauley, explaining the structure of the RFCAs, whose personnel are largely unpaid volunteers from diverse walks of life. They also enhance and reinforce the important link between civilians and the Armed Forces. Given the shrinking manpower in the Armed Forces, this is more crucial than ever.

Service in the reserves and cadets is of great importance, not least because it gives an opportunity for individuals to serve their country in the Armed Forces, which they can do while concurrently pursuing their studies. The links that RFCA members have with the civilian population are invaluable, not least because they assist in the retention of the good will of employers who release their staff to serve. Reserves are vital for reinforcements in combat and, furthermore, service in the reserves enables individuals who have served in the regular Armed Forces to transfer to the reserves and to retain and hone their skills.

In a debate also called by the noble Lord, Lord De Mauley, on 21 June 2018, I cited the case of two regular Royal Marines who left the corps and joined the reserves—namely Corporal Seth Stephens, a member of the Special Boat Service reserve, posthumously awarded the Conspicuous Gallantry Cross for outstanding bravery

[LORD BURNETT]
in Afghanistan; and Corporal Matt Croucher, awarded the George Cross for outstanding bravery while serving in a commando unit in Afghanistan.

Before I close my speech, I will say a few words about the Cadet Expansion Programme. This has been a great success, a combined operation with cross-party support. The Ministry of Defence, the Department for Education and the Treasury, which funded the programme partly through Libor fines, all deserve credit. The RFCAs played an active part in bringing about this success. It was launched in 2012, and by November 2019 the CEP 500 target was met five months early when the 500th cadet unit began parading. The vast bulk of the 258 new CEP schools are state-funded schools. It is already clear that there is overwhelming and compelling evidence demonstrating that cadet forces can make a huge and positive contribution to social inclusion, social mobility and the well-being of young people.

The Minister, in her comments on the draft report, is rightly extremely complimentary of the RFCAs. The noble Lord, Lord De Mauley, has told the House that the RFCAs are happy to see the council put on a statutory footing and to take certain additional safeguarding and other measures, but that the national and regional councils should remain volunteer led. Drastic change, as envisaged, should be resisted. I remind the House of the changes made some years ago in the system of Army recruiting. The results have been disappointing, to say the least. This is not an isolated example of where drastic change has resulted in failure. I hope the Minister is able to reassure us that the councils will remain volunteer led and retain their responsibilities.

6.13 pm

Lord Faulks (Non-Afl): My Lords, I do not have the military experience of many other noble Lords who have spoken in this debate, but I do have a number of friends and contacts who play important roles in the Reserve Forces and Cadets' Associations. I share—with all noble Lords, I am sure—a wish to preserve all that is best about the existing arrangements, while accepting that there may be some improvements that can be made. Inevitably, I will concentrate on legal and regulatory matters.

The draft tailored review highlights a number of strengths in the existing structure, in particular the extensive volunteer membership and community links. As the review concludes, at paragraph 2.2.4, the functions of the RFCAs

"remain relevant and valuable contributing to Defence objectives whilst building and maintaining vital links for the Defence community with the general public."

Weaknesses in corporate governance are, however, identified. As the noble Lord, Lord De Mauley, pointed out, these could be remedied without the creation of a single executive non-departmental body. The reason for the potential change is said to be because they are not "genuinely unique"—not a particularly happy expression—and thus unclassifiable, as they pass the three tests to be a non-departmental public body.

The Cabinet Office handbook, *Classification of Public Bodies: Guidance for Departments*, says:

"It is possible that for reasons associated with function or services, there may be a small number of ALBs"—

arm's-length bodies—

"that cannot be classified into one of the main categories without adversely impacting on the body's ability to fulfil of those functions/ deliver those services."

It goes on to say that

"such unique and unclassifiable entities will be allowed to remain administratively unclassified, in exceptional circumstances, so long as they have appropriate governance and accountability structures in place."

Yet there are several statements in the draft report which would lead one to conclude that they are unique, not least in the diversity and variety of their stated tasks. Indeed, in annexe C-5 of the draft report there is a clear statement that "the continuity of their tri-Service regional engagement is unique."

We are potentially about to lose some really valuable aspects of the organisations of the RFCA based on a concept of uniformity and a rather uneasy concept of uniqueness. What is the reason behind this? One might look to the ministerial foreword—not always a good source. One paragraph from the Minister of State reads as follows:

"I fully support the recommendations the Review makes about how the RFCAs can develop their effectiveness, efficiency, and corporate governance to fully realise the latent potential. In particular, regularising the RFCAs as a single Non-Departmental Public Body … to best deliver an increased focus on financial resilience, facilitating Reserves and Cadets skills development, renewal and modernisation of the Volunteer Estate, and spearheading innovative tri-Service engagement practices."

I am not sure that that would survive analysis by Mr Dominic Cummings. I am sure that the noble Baroness responding, whom we all much admire, will be able to be a great deal clearer than that foreword as to why this very valuable organisation suffers the possibility of being so sadly diminished.

6.17 pm

Viscount Brookeborough (CB): My Lords, I too thank the noble Lord, Lord De Mauley, for this debate. I have a few declarations of interest that go beyond the register. I am the Lord Lieutenant for County Fermanagh, and therefore a vice-president of the Northern Ireland RFCA. We also host a veterans charity at home, which is eligible for government grants, and my wife is on the RFCA.

Northern Ireland, with 3% of the UK's population and 7.7% of the reserve liability, is over 90% recruited. The reserves and cadets have survived and been recruited from both communities through 40 years of the Troubles. This has been enabled by the independence of the RFCA and the fact that it is an arm's-length body.

The tailored review recognises the value in Northern Ireland. Against the background of the lack of devolved Administration support, the Northern Ireland RFCA delivers additional output: for example, it reaches places that the MoD simply could not get to, has employer engagement in both communities, and has links with youth. Additionally, the cadets benefit from not being entirely within the military circle in Northern Ireland; presenting a non-military face of defence is crucial in areas where regional sensitivities must be considered. The Northern Ireland RFCA has developed a youth outreach programme. Last year, 60,000 took part in it; it is the biggest such programme in Northern Ireland, in both communities. RFCAs have a role in relation to the Armed Forces covenant. In Northern

Ireland, due to the position of some political parties that do not recognise it, that is even more important. In Northern Ireland, it is the RFCA, with its arm's-length status and informal but extensive networks, that enables it to work where the MoD cannot.

There is also a unique partnership with the Department for the Economy and Invest Northern Ireland, which includes creating opportunities for the military community as a whole. Overt support by employers is difficult in the Province, but the RFCAs have bespoke arrangements with 700 employers, which is unusual at that level.

This leads on to one part of the tailored review that everybody else has spoken about that I disagree with: the appointments through OCPA. I disagree with this as far as the regional RFCAs go. Sometimes we lose sight of the real objective and get into a regulatory trail and that is all that matters. The objective is to facilitate the provision of Reserve Forces to back up the regular Army and other forces, and to do other tasks to support the cadet organisations, which are the vital recruiting base for all our armed services.

The associations are key to providing the right environment in the right communities. It is their task to do this by being involved and having links in all areas. I believe that the current system of appointment to the boards has achieved this, especially during the provision of reserves during the conflicts in the last 30 years, where the Army, or the Armed Forces, have been undermanned. In fact, the results, during a period of very poor manning, have been quite extraordinary.

The key to this has been, I believe, the quality and wide civil experience of the boards. In Northern Ireland, for instance, currently we have the pro-vice-chancellor of Ulster University, the head of Children in Northern Ireland, an ex-chief nursing officer, an ex-chief police officer, an ex-finance director of a food processing company in Londonderry, which is a divided place, and a senior member of HMRC. I believe that people with this seniority and experience cannot be gathered in any other way. I have some experience of OCPA and there appear to be serial applicants who apply for anything that comes up—a few days a month for a small remittance. This effectively will cut out and disfranchise the seriously able and senior volunteer membership that has enabled the success of the RFCAs to work in culturally and politically sensitive areas.

In addition and in particular, I ask the Minister where the lieutenancies will stand. Similar to the rest of the UK, the eight Lords Lieutenant in Northern Ireland, who are vice-presidents of the RFCAs, and more than 100 DLs in Northern Ireland all work to support the reserves and cadets as volunteers. Do we do away with this valuable network? We cannot afford to do that. With these changes in the composition of the RFCAs, I fear we will lose the quality and ethos of their service.

6.22 pm

Lord Astor of Hever (Con): My Lords, I declare an interest as a former honorary colonel of a Royal Engineers reserve regiment. My comments are focused on the effect on the costs of what is proposed in the draft report.

Her Majesty's Treasury's publication *Managing Public Money* says in chapter 3, under "Accounting Officers", that

"the accounting officer should ensure that the organisation, and any ALBs it sponsors, operates effectively and to a high standard of probity. The organisation should … use its resources efficiently, economically and effectively, avoiding waste and extravagance".

That is much in line with a common-sense approach to controlling costs properly and obtaining value for money. *MPM* also says that the accounting officer should

"avoid over defining detail and imposing undue compliance costs, either internally or on its customers and stakeholders".

The draft report on the review is complimentary about the ability of RFCAs to control costs. It says at paragraph 4.0.3:

"The Review found that the RFCAs deliver a great deal on tight resources, proving strong value for money."

Paragraph 2.10.6 says:

"The RFCAs are able to exploit synergies by combining their work across functions to deliver greater than the sum of the parts."

Tellingly, and with masterly understatement, it says at paragraph 2.5.7:

"Evidence from customers is that efficiencies would be unlikely to be realised if the maintenance tasks were transferred to the Defence Infrastructure Organisation, which is responsible for the equivalent function for the regular forces estate."

Paragraph 8 of annexe B to the draft report says that the review proposes to

"identify activities conducted across Defence that could be done by the RFCAs more effectively and/or at less cost."

The report then comes up with quite a long list of new tasks that the RFCAs could be considered for taking on, apparently improving efficiency and value for money, such as managing small training areas, working on the injured servicemen's living accommodation project and delivering elements of the MoD's veterans' strategy.

This all seems to imply not only that the RFCAs are highly competent at controlling costs and obtaining value for money but that the author thought so quite strongly. He is not beating about the bush. Yet recommendation 5.6a proposes that board chair and members should in future be OCPA-regulated and that regional board chairs should also be appointed on OCPA principles. It would be very unusual for those appointed to similar positions on other government bodies on OCPA principles not to be paid for their time. Indeed, recommendation 5.6d says that

"consideration should be given to remunerating RFCA board and regional council members."

So here is the draft report recommending the introduction of a new and quite unnecessary cost, which would have to be funded by so-called savings elsewhere and would inevitably mean greater centralisation and less localism, going against what it is trying to achieve.

Currently, the chairs and board members work for the RFCAs for free. They live and breathe the volunteer ethos. They understand the Reserve Forces and the huge pressures that apply to members in reconciling the demands of family, civilian work and military responsibilities. Purely in terms of value for money, let alone the casting aside of the network of experienced volunteers, I suggest the need for a rethink.

6.26 pm

Earl Attlee (Con): My Lords, I too am grateful to my noble friend Lord De Mauley for tabling this Question for Short Debate and speaking to it with his usual clarity. Like all noble Lords, I strongly advise the Minister to exercise caution in this area. I remind the House that I have been a member of an RFCA in the past.

My fear is that yet again the MoD is being tempted to concentrate on form rather than function—a desire for a generic process rather than a recognition of the pragmatism and product that a bespoke design can and does generate. Time and again, the RFCAs' structure and operating methods having been challenged, but it has always ultimately been conceded that their unquestionably unique character must be retained. This does not break the guidelines, but merely exploits the guideline provisions to recognise difference.

Defence needs what the RFCAs provide. When others, for example SaBRE, the DIO and the Recruiting Group, have tried to take over the role, the results have been at best suboptimal and at worst near catastrophic. As for Capita, why is it still involved in the Armed Forces at all? All noble Lords have heard the horror stories. Privately, I know of two cases of potential officers who have been rejected, or nearly rejected, for trifling sports injuries which servicepeople would likely incur during their career in any case and which certainly would not adversely affect their PULHHEEMS rating.

There is a very serious misconception about military recruiting. Whether regular or reserve, military service is not simply a job whereby the employer offers remuneration in return for a certain amount of work over an agreed number of hours. Military service is an unlimited commitment, for which no amount of remuneration could possibly compensate if that commitment is fully called in. My noble friend Lord Faulks made an exceptional point.

I draw the House's attention to a further danger of centralising the function of the RFCAs. Suppose, God forbid, it becomes necessary to rapidly expand the volunteer reserves, especially the land forces. It would take time, knowledge and contacts to put the necessary infrastructure in place. This would not be difficult for the RFCAs as currently organised.

Indeed, an important activity of the RFCAs is property maintenance. The feedback I get from regular officers about the DIO is too vitriolic to repeat to your Lordships' House. For instance, one complaint concerns keeping buildings on the defence estate unused when there is a use for them, simply because no funding is available for the statutory inspections—electricity and asbestos inspections, for example. Thus these buildings are allowed to deteriorate instead of being used for defence-related purposes The RFCAs manage a diverse estate comprising many relatively small properties. "Mega propman" contracts are completely unsuitable for this type of work. They result in high costs for trivial works, which also take a long time to complete.

I hope my noble friend the Minister will feel able to use her good offices to maintain the status quo with respect to the RFCAs.

6.31 pm

Lord Mountevans (CB): My Lords, I add my thanks to the noble Lord, Lord De Mauley, for initiating this important debate. I declare my interests as an honorary officer in the Royal Naval Reserve and as a vice-president of the Marine Society and Sea Cadets. For a number of years I served on the City of London RFCA and was privileged to serve as president when Lord Mayor of London in 2015-16.

Almost 10 years after the start of the successful Future Reserves 2020 betterment and expansion programme, the Reserve Forces are now absolutely vital to defence. As we speak, reservists are delivering operational effect. Some are deployed on operations abroad; others, such as the hugely successful cyber reserves, are delivering vital capability here in the UK. The reserves are now well recruited and, most importantly, provide a vital link from defence into the wider community, including employers. We can all be justly proud of the great contribution of the reserves to our nation's defence, and indeed also of our superb cadet organisations.

The draft report we have been hearing of has not been published—nor have I seen a copy—but I am hearing considerable concerns regarding some of the recommendations from both regulars and reservists. I do not need to go into them because we have heard them.

Reservists are remarkable people. We all know in our own lives how difficult it is to balance career, family and other commitments, but reservists take on additional demanding duties that require time, energy, commitment, physical fitness, additional organisational flair and more—and do not let us forget that they can also, like their colleagues in the regulars, be called upon to make the final sacrifice.

It is incredibly important that reservists know that they have the support, back-up and understanding of the RFCAs. They know that the RFCAs consist primarily of volunteers, who share the volunteer ethos with them and typically have served themselves in the regulars or the reserves. RFCA personnel know the challenges, difficulties and satisfactions that our reservists experience. The involvement of the Lords Lieutenant and the deputy lieutenants links directly to the Crown—which, again, the reservists totally relate to.

We have heard how the RFCAs are typically manned by individuals of high achievement and the highest integrity. This is critical also for the local businesses, large and small, local authorities, civic society, trade unions and other entities that support the reserves, the cadets and, importantly, the Armed Forces covenant, in this instance, particularly, building and maintaining relationships which the department and the Armed Forces lack—and they do this for neither reward nor recognition.

It is hardly controversial to suggest that the nation is very well served by the regional structure of the RFCAs. Independent and impartial, rooted in their communities, they are ideally located to develop and maintain relations with the local population and local businesses and interests. Given the calibre of individual involved and their local involvement, they work with sensitivity to address local needs and sentiment. As

the noble Lord, Lord De Mauley, noted, they have been especially successful in working with the devolved Administrations, managing to maintain consensus on matters where a direct approach from the MoD could easily lead to friction.

This regional footprint and close ties to their respective communities is seen by RFCA customers as a key strength, with regional variance and nuance in delivery and engagement. The regional approach works.

There is perhaps an understandable focus on the Army, but it is generally accepted that the services get a pretty good service from the RFCAs, and something which is not always remarked on is that the RFCAs also do a great deal to support the single services in their work to engage society in the most general sense. One example of this is the work they do on employer engagement for the purposes of supporting all the tenets of the Armed Forces covenant, not just the recruiting and retention of reserves.

Currently the chairs and board members work for the RFCAs pro bono. They are steeped in the volunteer ethos, and they understand the Reserve Forces and the huge pressures that apply to their members. Will someone who applies online, who is perhaps a regular applicant for paid government advisory appointments, who may have no experience of or particular previous interest in the Reserve Forces, do this better than an experienced volunteer who is already in post?

Why, at this time of financial challenge for the Armed Forces, would you pay new people to do something which is already being done to the highest standard, as is widely acknowledged, and unpaid? We should be genuinely concerned about whether those recruited under the OCPA guidelines would offer the same experience, commitment and independence of mind. There is a risk of "them and us" emerging as a factor.

All of this is not to suggest that improvements cannot be made, but the perceived weaknesses can be addressed in a straightforward way, without wholesale change. To echo the noble Lord, Lord West, surely it is not beyond the wit of man—for which read "government"—to put the council and the RFCAs on some sort of statutory footing.

6.36 pm

Viscount Trenchard (Con): My Lords, I congratulate my noble friend Lord De Mauley on introducing this timely debate today. I should declare an interest as honorary air commodore of 600 (City of London) Squadron, Royal Auxiliary Air Force and my interest in the reserves and cadets as a deputy lieutenant of Hertfordshire and as a lieutenant of the City of London. I also have three years' experience in the CCF and 10 years' service in the TA.

I urge the Minister to be cautious in adopting a review which could be described as using a sledgehammer to crack a nut, with probable damaging consequences. As the draft review itself acknowledges, the RFCAs are actually working pretty well and it might be wise to heed the old maxim, already quoted by other noble Lords, "If it ain't broke, don't fix it."

The draft review contains some important and sensible recommendations—for example, placing the Council of the RFCAs on a proper statutory footing but surely such change could be achieved without the radical reorganisation presaged by the draft review. To change the 13 autonomous RFCAs into a single non-departmental public body would be to risk throwing the baby out with the bathwater. In 2007, the Cabinet Office took the view that the RFCAs did not fit into any of the classifications for arm's-length bodies and that, in particular, they were not non-departmental public bodies. What has changed since 2007? The draft review offers no new evidence as to why the RFCAs should now be put into a Whitehall straitjacket.

The review claims that the RFCAs are not genuinely unique and unclassifiable and therefore, change is necessary: the status quo cannot be maintained. However, the Cabinet Office handbook *Classification of Public Bodies: Guidance for Departments* states:

> "It is possible that for reasons associated with function or services, there may be a small number of ALBs that cannot be classified into one of the main categories without adversely impacting on the body's ability to fulfil those functions/deliver those services."

I do not think that anyone who has served in the Reserve Forces could hold the view that the RFCAs are not completely unique. There are no other bodies anything like them. I strongly believe that the unique nature of the RFCAs should permit them to continue to operate as unclassified ALBs. The Reserve Forces today play an increasingly important role as a fully integrated part of the Regular Armed Forces. The cadets provide opportunities for young people to serve their country, teach leadership and other skills to tens of thousands and provide a continuing source of recruits for the Regular Forces. They bridge the gap between the military and civilian communities. That gap has become much greater, given the much smaller numbers of personnel and establishments in the Armed Forces today.

The involvement of lord lieutenants would also diminish or even disappear if the RFCAs were to become mere advisory bodies to a centralised NDPB. I doubt that the application of OCPA appointments procedures would improve the leadership of the RFCAs. Paragraph 5.6.4 states that as the RFCAs are regularised into a single NDPB, future appointments should be fully compliant with OCPA procedures. However, I believe that the present system produces the right people to do this job. The proposed changes would result in increased costs, as many of those appointed under these procedures would expect to be remunerated.

I do not believe that many of the people who do this work on a voluntary basis at present would be willing to go through the OCPA process; nor would they be willing to give up their time for organisations shorn of most of their authority and independence. I consider it most unlikely that their replacements would have anything like the local connections that have ensured that our Reserve Forces and cadet organisations are today relatively well recruited and in such good shape. I ask the Minister to think again and take time to find a better way forward for the RFCAs to be brought up to date without condemning them to radical surgery of the kind which so severely damaged the St John Ambulance Brigade.

[VISCOUNT TRENCHARD]

Lastly, the county fora, which provide a local focus with which many reservists identify, would wither on the vine, and other sub-associations, such as the City of London association, of which the lord mayor acts as president, would quickly lose their significance.

6.41 pm

Lord Colgrain (Con): I too am grateful to my noble friend Lord De Mauley for arranging this short debate. I always feel humble when speaking in your Lordships' House—particularly on this occasion, when practically everyone who has spoken before me has held a senior rank. I held the lowliest rank, both in the OTC and the CCF, and as a police special constable. However, the first two gave me the opportunity to see the value of RFCAs from the bottom up, so to speak, and I found a further perspective when visiting a number of them while performing my duties as high sheriff of Kent. This perspective, of course, is also shared by lord lieutenants and deputy lieutenants, as has been mentioned a number of times in this debate. On the back of those and other experiences, I should like to make a couple of quick points.

First, the experience of one particular high sheriff visit remains with me—to a couple, just one man and one woman, responsible for 70 young sea cadets. Almost all these young people were latch-key kids, with one or both parents working when they got home from school. As cadets, they were removed from the temptation of being on the streets as gang members, with crime and drugs an everyday occurrence, and were instead given membership of an organisation that provided them with companionship, structure and the chance to build their personal confidence as a member of a team.

The couple responsible had significant influence in the local community, which did its best to support them financially and in kind. Therefore, I suggest that any reclassification of the RFCAs must be mindful of the value provided by similar local communities, and that any restructuring should not disempower them, superimpose any further regulation at grass-roots level or alter their scheme of association.

Secondly, RFCAs currently enjoy critical links to business through regional business groups; the importance of these links cannot be overemphasised. The theory of asking for the employer and the employee to have trust and understanding that the role will be kept open, and remuneration and promotion opportunities sustained, when a senior manager is called up for a six-month tour of duty seems pretty straightforward. The actuality is far from it—a situation that could be worsened if there is any severance of the current regulations, which would impact on our RFCA functions and could be detrimental to the Armed Forces covenant.

Thirdly, I have had personal, professional and commercial experience of the MoD's track record in managing property. For 15 years I was on the board of a company that provided short-term residential accommodation to MoD personnel, some seven and a half properties at any given time. I saw how a mixture of civil servants, civilian contractors and military personnel from all three services were being asked to make commercial decisions for which they had no training or qualification and to which they were not best suited. When we suggested embedding our staff in the department concerned to facilitate the process, we were rebuffed. The final act of this particular play was the invocation of a judicial review to ensure that a tender document could be reissued within a level commercial playing field and the MoD's own terms of reference. So the suggestion that the MoD might become further involved in the volunteer and cadet estate, which I believe the report is suggesting, is something I would hesitate to recommend.

On the basis of the above examples, I ask the Minister to encourage the powers that be to leave the current RFCA structure and classification as it is.

6.46 pm

Baroness Garden of Frognal (LD): My Lords, I too thank the noble Lord, Lord De Mauley, who is an unofficial noble friend from our days in the coalition Government, both for introducing this debate and for persuading me that I really did want to chair the cadet inspection team. In the short time that I have been doing it, I have found it both fascinating and rewarding. I have been really interested in the wide variety of contributions today, and regret that the pressure of time means that I will not be able to reference speakers.

My late husband went from air cadet to Air Marshal, having a gliding licence and a pilot's licence while still at school. He was always a staunch champion of cadets, was a long-term president of the London and South-East Region Air Cadets, and was a rare airman to serve a term as president of the council of the Combined Cadet Force Association. I declare an interest as a council member of the Air League, which supports and funds air cadets, and I sponsor an annual Youth in Aviation event here in the Lords—an inspirational event where young people with an interest in aviation, often from very disadvantaged backgrounds and some very disabled, display their achievements in the air and their passion for aviation.

An additional interest is as vice-president of the War Widows' Association. We are always grateful to the reserves and cadets who take part in our annual remembrance service at the Cenotaph on the Saturday before Remembrance Sunday. Their professionalism is always greatly appreciated as we remember the men we see no more. They carry the standard, play in the band, march and wheel the wheelchairs with professionalism and friendliness. In the context of war widows, perhaps I might ask the Minister what provision is made for the care and support of the families of reservists who lose their lives or are injured in the course of their service.

I have another connection as a past master of the World Traders livery company. As a past Lord Mayor, the noble Lord, Lord Mountevans, knows well that the Lord Mayor and the livery companies of London are staunch supporters of the cadets and the reserves. We award prizes and give financial support, and in return the cadets are frequently on show at livery and Mansion House events, where in these imposing and intimidating places they display courtesy and competence in carrying out their duties.

As we have heard, the cadets are of course dependent on the reserves, who supply many of the dedicated and hard-working staff who enable the young people to achieve so much. I hear the concerns over the review, although I was pleased to hear the continued commitment to provide a challenging and stimulating contemporary cadet experience that develops and inspires young people in a safe environment. Could the Minister say how the recruitment of those volunteers bearing up?

Our inspection team operates under the is aegis of the Council of the Reserve Forces' and Cadets' Associations, of which the noble Lord, Lord De Mauley, is president. Our task is a gentle form of Ofsted: we visit cadet units at work and at camps to check on the welfare of the young people and to hear about any issues from the staff. We also keep an eye on the training programme, both for safety and for relevance, while being well aware that part of the value of cadets lies in managed risk. Swinging from ropes, shooting, sailing rafts across rivers and of course flying all carry hazards, but undertaking them under watchful expert eyes mitigates the risk and leaves the young people with a huge sense of achievement and self-respect.

It is really good news that the Government have launched the cadet expansion programme to introduce more cadet units into state-funded secondary schools and have committed £50 million from Libor fines to cover set-up costs, uniforms, equipment and training to grow the total number of cadet units in schools across the UK to 500 by 2020. I believe that number has been met; can the Minister say how it is set to increase? We know that some who join the cadets have only ever worn trainers and have never sat at a table for a meal. Exposure to hard shoes and table manners can come as a rude shock, but one which prepares them so much better with life and social skills for a more ambitious life.

It is a source of concern that air cadets have been woefully short of actual flying. There have been problems with both gliders and training aeroplanes, such that many air cadets have missed out on the air part of their cadetship. Can the Minister say if these problems have now been sorted? Are air cadets now able to gain glider and pilot licences, as my husband was?

Has further thought been given to the strange edict of a few years ago when an overnight ban was put in place for an age barrier for flying instructors? We know from this place that professional competence does not stop at 60, and very many highly experienced and utterly competent instructors were effectively sacked. Surely that policy needs to be reviewed. Has it been and, if not, will it be? Pilots tend to be a healthy breed who are well aware of safety requirements. They should be well able to decide themselves when they are no longer as effective as they should be and to choose their own time of retirement.

I am sure that all those speaking and many others in this House are acutely aware of the value of cadets and the importance of ensuring that they continue to be funded and supported. The opportunities they afford to enrich young lives are very significant. I look forward to the Minister's reply and hope that she is as enthusiastic in her support as those who have spoken.

6.51 pm

Lord Tunnicliffe (Lab): My Lords, I thank the noble Lord, Lord De Mauley, for securing today's debate, and join noble Lords in praising the work of the Reserve Forces and Cadets Association. Its 13 regional associations play an important role in local communities by recruiting cadets and volunteers, building close ties with different people and organisations and promoting the Armed Forces covenant. The tailored regional approach is a great asset and their popularity is clearly seen by a volunteer membership standing at around 8,000.

We know that the Government are currently conducting a review of the RFCAs. When will it be published? We understand the MoD must reconstitute the RFCAs' schemes of association every five years, and with a March deadline this year, surely the report must be published soon. While associations have Crown status, I understand there is confusion about their administrative classification. Could the Minister explain how they are classified by the MoD?

Associations are closely involved in building up the cadets. Labour strongly supports this work, as cadets continue to offer new horizons for young people who learn teamwork, resilience, confidence and self-esteem through their involvement. Last year, I spoke in a debate about the important cadet expansion programme. How do associations operate in relation to that? I also stressed that there has been a 2% decrease in the number of young people involved with cadets, as well as a 7.5% decrease in the number of adult volunteers. Can the Minister give an update on what the Government are doing to reverse this trend? Will the review into associations also consider best practice for safeguarding?

I am sure the whole House would like to commend the associations' work on the Armed Forces covenant. The covenant represents the solemn and enduring commitment that we owe to members of the Armed Forces community. Regional associations help different businesses and organisations fulfil their covenant pledges and, in 2019, the total number of signings of the covenant passed 4,000. It was great to see even large multinational companies, including Facebook, signing up and demonstrating their responsibility to communities.

Labour supports the covenant and the important guarantees that underlie it. Building on the Queen's Speech, the Government have said they will

"progress proposals to further incorporate the Covenant into law to mitigate any disadvantage faced by the armed forces community due to the unique nature of military service."

Are they consulting on these proposals and when will they be published? Importantly, will these proposals include a provision to place greater responsibility on public authorities to ensure greater consistency in the implementation of the covenant?

On the central point of the noble Lord, Lord De Mauley, I am unable to make a Front-Bench judgment. However, it is clear from the debate that the present system works well. The Government should require change only if they can clearly show that there is real advantage. Should they introduce a new system and performance declines, we will certainly hold them to account. Change for change's sake is a dangerously overrated policy.

6.54 pm

The Minister of State, Ministry of Defence (Baroness Goldie) (Con): My Lords, I am most grateful to my noble friend Lord De Mauley for initiating this debate and affording this House the opportunity to discuss the important work of the Reserve Forces and cadets' associations. I am grateful to all noble Lords for their contributions.

I should perhaps declare an interest as a deputy lieutenant of the county of Renfrewshire. I say to the noble Viscount, Lord Brookeborough, and the noble Lord, Lord Mountevans, that there is no plan to end the role of the lieutenancies in this context.

A number of your Lordships referred to the review that the Ministry of Defence has been undertaking during the past 12 months. The review report is not yet in the public domain, which occasions me some discomfiture. I am not being evasive but, as your Lordships will understand, I am unable to discuss the report specifically. I do not propose to respond to questions about it, but I am happy to refer to the associations in general terms, more specifically to the valuable work they do, and to the identifiable issues that have emerged.

As the president of the Council of RFCAs, my noble friend is a strong advocate for the reserves and the cadets' associations, as are many other Members of this House. I echo my noble friend's points about the value of the work done by the RFCAs in three important areas: supporting and growing our cadets across the UK; ensuring that our reservists and cadets have safe and modern facilities where they can train and develop valuable life skills; and promoting the benefits that supportive employers and the Armed Forces family can enjoy together through the Armed Forces covenant and the employer recognition scheme. In the context of supporting and growing our cadets, the noble Lord, Lord Tunnicliffe, sought clarification about strength. As at 1 April 2019, there were 85,620 community cadets, an increase of 1,240, or 1.5%, since April 2018. A conjoined issue is safeguarding, which the noble Lord also raised. Safeguarding young people is our priority. We have robust procedures in place, including mandatory security and background checks for all adults who work with children, rigorous disclosure procedures and regular safeguarding training. The noble Lord also raised a point about the Armed Forces covenant; I shall write to him about that.

In the MoD, we are very grateful to the RFCAs for the work of the external scrutiny team, whose annual reports play a crucial role in ensuring that the reserves are not left to fall back into the relative decline evident in 2011. We are also grateful for the annual health check of the MoD-sponsored cadet forces. This is a valuable part of the cadet governance process, which provides senior management in the MoD with an independent view of the state of the cadet forces.

As our Armed Forces modernise and reform, especially through the Future Reserves 2020 programme, the RFCAs are a key partner to Defence—I repeat: a key partner—in maintaining and developing links with the communities in which they are based and with society at large. I reassure the noble Lord, Lord Dannatt, and my noble friends Lord Attlee and Lord Colgrain about that. The noble Baroness, Lady Garden, referred to the important role—I think it is a great role—played by the cadets on ceremonial occasions, which is a manifestation of their worth and relevance.

The RFCAs' evolution and growth since 1908, which has seen them taking on new tasks on a tri-service basis, has cemented their place as a key contributor to defence delivery. That is thanks in no small part to the commitment of their vibrant and active voluntary membership and executive staff, the regional networks, and the links that the RFCAs have within their communities. The noble Viscount, Lord Brookeborough, spoke eloquently about that aspect.

We recognise these important strengths and reaffirm Defence's commitment to the RFCAs: they are, and should remain, a key and trusted partner. That message has been received loud and clear. However, there is also a recognition that, as our Armed Forces evolve with the modern world, so too must their key support mechanisms. When you believe in something, as Defence believes in the RFCAs, that should not blind you to areas where improvement is required. Because of that belief, and the desire to support and enhance, it is important to recognise that change may be necessary. I fear that some noble Lords see the MoD as the bogeyman in this. I will try to place the issue in context. The review of the RFCAs is due to be considered at the MoD executive committee in the coming days, and I do not intend to pre-empt or guide its considerations here, ahead of the report's publication in the coming weeks. I will instead attempt to analyse and clarify some relevant issues for the House.

The Reserve Forces Act 1996 sets out how associations can be set up and what their roles are. The legislation outlines the flow of executive authority and allows the associations to convene a joint committee—in this case, the Council of the RFCAs—for any purpose in respect of which they are jointly interested. Over time, the council has become the primary point of contact for Defence, through which all MoD funding for the RFCAs is channelled. However, in law, a joint committee, as constituted under the 1996 Act, does not have separate legal status—a point fairly acknowledged by my noble friend Lord De Mauley and the noble Lord, Lord West. However, in practice the council operates as though it is a separate legal body, employing staff and operating bank accounts. However, as it has not been incorporated or otherwise legally constituted, legal responsibility for any financial or public liability resulting from council activity falls to the council board members personally. That is an onerous and significant degree of risk to individuals. I am sure noble Lords will agree that this exposes those board members to an unacceptable level of personal liability.

The nub of the issue is this: it results in a situation whereby decisions on spending public money can be—and in some cases are being—taken by some persons who are not accountable to the MoD Permanent Secretary, who is the department's principal accounting officer, with all the consequent legal responsibilities of that office. This model, and the practices that have developed in the 24 years since the Reserve Forces Act was passed, are therefore not compliant with *Managing Public Money*, because regularity and propriety cannot

be assured. A number of noble Lords suggested we just amend the existing legislation to place the council on a statutory footing, but that would not solve the issue of financial compliance. The two issues go intrinsically hand in hand and need to be addressed together through classification. Having said all that, I listened with great care to what my noble friend Lord Faulks said. He raised some important points and I undertake that they will be explored.

My noble friend Lord De Mauley, who has had sight of a draft of the review report, has suggested that the proposals contained in it could have an adverse effect on the voluntary membership, causing the associations to suffer a loss of talented and committed people. Defence agrees that this is something to be avoided and I reassure noble Lords on that point. We stand by to work with the constructive and committed leadership of the RFCAs, over a generous period of time, to ensure that we create an environment where the volunteer ethos and value is celebrated and supported by Defence, in order that there is little or no impact on this vital function of the RFCAs.

The noble and gallant Lord, Lord Houghton of Richmond, asked about reserve strengths. As at 1 October 2019, the trained strength of the FR20 volunteer reserve population was 32,760, an increase of 500—or 1.5%—since October 2018.

I think it was the noble Lord, Lord Burnett, who raised the broader defence and foreign affairs review. That is a No. 10 initiative and there is no further information available about it at the moment. He also raised putting the covenant on a statutory basis. I reassure him that that was in the Queen's Speech, but there is no specific further information on it at present.

Anxieties have been expressed, and I hear them, but it is right that Defence seeks to manage natural anxieties around compliance, accountability and, importantly, diversity and representation, which were not very prominent in the debate. It is also true that Defence wishes to preserve and improve the RFCAs. We value them, we want them and we wish them to offer more, not fewer, opportunities to serve our nation. I think that seems both positive and creative.

The review process has facilitated an analysis and an understanding of what, in terms of compliance and acceptable practice, seems to be deficient. I do not think it is a weakness to identify such issues; it would be a weakness and a failure by the MoD to the RFCAs not to recognise these challenges and be prepared to deal with them, especially in an organisation which is so vital and so welcome to Defence. But I reassure your Lordships that the review process has certainly shone a beaming light on the great strength of the RFCAs—I think that has been universally acknowledged during the debate and it is acknowledged from this Dispatch Box.

I say to the noble Lord, Lord West, that this debate has provided an invaluable forum for comment, and it will be studied closely. I hope this House can further debate the review itself in due course, once it has been published. I look forward to the RFCAs and their champions engaging constructively with Defence throughout the process of consideration and implementation of the review, strengthening the relationship between Defence and the RFCAs and ensuring that the many mutual benefits that they can can deliver will continue enhanced long into the future. I hope that, if I have not served to reassure all noble Lords on every point on which reassurance was sought, I have managed to explain why I think there is a strong and good relationship that the MoD wants to nurture.

Viscount Brookeborough: Will the Minister undertake to ensure that the executive committee gets a copy of this debate? It has been fairly unanimous in its opinion and would provide some bedside reading before it comes to a conclusion.

Baroness Goldie: I imagine that it is a matter of fundamental importance that they would want to look at the debate and its conclusions, but I will certainly make sure that the debate is reported to the department and that all those with a relevant interest are made aware of its contents.

Baroness Garden of Frognal: Will the noble Baroness undertake to write on the questions I posed which she has not been able to answer?

Baroness Goldie: I did say at the beginning that for anything I did not answer, I would write.

House adjourned at 7.07 pm.

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