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PARLIAMENTARY DEBATES
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HOUSE OF LORDS

OFFICIAL REPORT

ORDER OF BUSINESS

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In Hybrid sittings, [V] after a Member's name indicates that they contributed by video call.

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

No party affiliation is given for Members serving the House in a formal capacity, the Lords spiritual, Members on leave of absence or Members who are otherwise disqualified from sitting in the House.

House of Lords

Tuesday 9 June 2020

The House met in a Hybrid Sitting

11 am

A minute's silence was observed in memory of the death of George Floyd.

Prayers—read by the Lord Bishop of Derby.

Arrangement of Business

Announcement

11.05 am

The Lord Speaker (Lord Fowler): My Lords, the Hybrid Sitting of the House will now begin. A limited number of Members are here in the Chamber, respecting social distancing. Other Members will participate remotely, but all Members will be treated equally wherever they are. For Members participating remotely, microphones will unmute shortly before they are to speak—please accept any on-screen prompt to unmute. Microphones will be muted after each speech. I ask noble Lords to be patient if there are any short delays as we switch between physical and remote participants. Oral Questions will now commence.

Exercise Cygnus

Question

11.06 am

Asked by ***Lord Hunt of Kings Heath***

To ask Her Majesty's Government what action they took following Exercise Cygnus to prepare the United Kingdom for responding to a major pandemic.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Bethell) (Con) [V]: My Lords, Exercise Cygnus addressed the greatest risk in the National Risk Register of Civil Emergencies: a flu pandemic. All the recommendations from Exercise Cygnus were accepted and taken on board. Many of these proved invaluable for informing the response to Covid, including plans for legislation that would assist in response measures, for bringing back retired clinical staff, for flexing systems beyond normal capacity and for establishing a group of expert advisers on moral, ethical and spiritual issues.

Lord Hunt of Kings Heath (Lab) [V]: My Lords, if the Minister is so confident that the lessons from Exercise Cygnus informed the UK's preparedness, why was the care sector so neglected? To deal with the surge of NHS patients expected in the event of a pandemic, the exercise identified that extra capacity would be required in care homes. Why was that not heeded and why, as Martin Green, chief executive of Care England, put it, was PPE redirected away from care homes and the NHS given a clear instruction in March to send people to care homes despite no testing for infection being available?

Lord Bethell [V]: My Lords, the Association of Directors of Adult Social Services had strong input into operation Cygnus and its recommendations were taken on board. It was however a trial run for a flu pandemic, not of the kind that Covid produced, and the demands on PPE, the health sector and the care sector were more profound than the flu pandemic trials prepared us for.

The Lord Speaker (Lord Fowler): Lord Lansley. No?

Lord Harries of Pentregarth (CB) [V]: The Secretary of State for Health, Mr Hancock, said on 7 May that he had consulted officials and had been assured that all the recommendations had been implemented. However, Martin Green, the chief executive of Care England, is reported as saying:

"It beggars belief. This is a report that made some really clear recommendations that haven't been implemented."

How does the Minister reconcile these two totally contradictory stories about whether or not the recommendations were implemented?

Lord Bethell [V]: I assure the noble and right reverend Lord that operation Cygnus happened in 2016 and the recommendations were completed by spring 2018. However, it is possible that nothing could have prepared us for the ferocity of Covid. Operation Cygnus prepared us for a flu pandemic and not for something with the savagery of Covid-19.

Baroness Wheeler (Lab) [V]: The Secretary of State for Health said in relation to Cygnus and the failure to implement key recommendations and warnings on PPE stocks, ventilators, testing and tracing, and scaling up the public health system, that

"everything that was appropriate to do was done."

To demonstrate this clearly and with evidence, why are the Government not prepared to be open and transparent and to publish the report and recommendations, or to show what action they took on findings of two subsequent major planning exercises with similar warnings: Exercise Iris in 2018, covering a possible pandemic in Scotland, and last year's crucial national security risk assessment?

Lord Bethell [V]: My Lords, it is necessary for the preparations for such civil emergencies to be made in a confidential fashion so that the unthinkable can be thought and plans can be made in a trusted and benign environment. Publication of these reports is not in the national interest and we do not have plans to publish them in the future.

Baroness Jolly (LD) [V]: My Lords, in the Cygnus report, preparedness, response, plans and capability were found lacking. Local capacity would be outstripped in the areas of excess deaths, social care and the NHS. What findings from the Cygnus report were incorporated into the work for the current pandemic?

Lord Bethell [V]: The noble Baroness is in danger of misrepresenting the situation. The whole point of running a trial such as operation Cygnus is to probe the system and to find weaknesses. That it identified areas for

[Lord Bethell]
improvement is entirely appropriate and is exactly why we run such projects. As I have explained, the exercise identified key areas where developments were made, and those developments helped us in our preparations for Covid.

Baroness Bennett of Manor Castle (GP) [V]: My Lords, does the Minister agree that Exercise Cygnus warned, and Covid-19 has demonstrated, that we were profoundly unprepared for the pandemic shock that we knew was coming? Does he agree that it demonstrates that a focus on so-called efficiency—that is, profit maximisation for contractors and cost minimisation for Governments under austerity—is incompatible with resilience? The whole model of outsourcing and privatisation is not fit for the 21st-century age of shocks.

Lord Bethell [V]: The noble Baroness will not be at all surprised to learn that I do not agree with her analysis in any way. Operation Cygnus demonstrates that we did have robust systems in a great many areas and I am grateful to it for identifying some areas that we went on to improve. As for working with the private sector, I bear testimony to its enormous contribution to our Covid response. I do not agree with her characterisation of the profit motive.

The Lord Speaker: Lord Naseby. No?

Baroness Finlay of Llandaff (CB) [V]: My Lords, after operation Cygnus were estimates of the requirements for PPE checked against the 2006 influenza pandemic stockpile, given that this store was found to contain no gowns or visors, and 21 million protective FFP3 masks were missing when the store was opened for the current pandemic?

Lord Bethell [V]: The noble Baroness is right—if I understand her correctly—that the needs of PPE for a flu pandemic were quite different from those for Covid. It is also true that the planning did not anticipate a breakdown in global trade and a failure of the business-as-usual supply of PPE. No one could have imagined that flights would be grounded and factories shut and that the global supply chains for these key and vital products would have ground to a halt in the way that they did.

Lord Clark of Windermere (Lab) [V]: Is it true that Exercise Cygnus reported a shortage of ventilators, critical care beds and PPE in the National Health Service? If so, why were we singularly unprepared in all these spheres three and a half years later, at the beginning of Covid?

Lord Bethell [V]: My Lords, I admit that my briefing is not entirely specific, but it is my impression that operation Cygnus did not address the question of ventilators. One of the distinctive characteristics of Covid was the pneumonia response, which required an unanticipated and dramatic increase in our need for ventilators. That is one of the reasons why there was a global shortage of this key equipment. I have addressed this with the notes I have before me and will be happy to correct it if I have misunderstood.

Baroness Brinton (LD) [V]: The Minister has asserted that my noble friend Lady Jolly misrepresented Cygnus, but she and other noble Lords have quoted from it. The Minister said earlier that "nothing could have prepared us" for something of this severity. Surely the point of pandemic preparation is also to watch what is happening elsewhere, such as in China and Italy in January and February. Why was the government response so slow to adapt to the needs of Covid as it emerged?

Lord Bethell [V]: The noble Baroness conflates two separate matters. The National Risk Register of Civil Emergencies is updated regularly and assesses civil emergency risks with a five-year horizon. The ongoing monitoring of risks in overseas countries is done in a different manner. I was trying to convey to the House that operation Cygnus was a rehearsal for a flu pandemic, not for the kind of virus that Covid proved to be.

The Lord Speaker: My Lords, the time allowed for this Question has elapsed. We will now move to the second Question, in the name of the noble Baroness, Lady Quin.

Local Government: Economy

Question

11.16 am

Asked by ***Baroness Quin***

To ask Her Majesty's Government what discussions they have had with the Local Government Association on how national and local government can work together to promote economic recovery after the COVID-19 pandemic.

The Minister of State, Home Office and Ministry of Housing, Communities and Local Government (Lord Greenhalgh) (Con): My Lords, there has been regular and substantive contact between Ministers and the Local Government Association during the Covid-19 emergency. A ministerial-led economic recovery working group has been established, made up of local government leaders from the LGA and including several metro mayors and local enterprise partnership chairs, to help inform the Government's plans for economic recovery. The Government continue to work closely with local leaders to restart the economy and move into recovery.

Baroness Quin (Lab) [V]: I thank the Minister for that reply. I urge the Government to include representation from the English regions, in addition to London, in future COBRA meetings on Covid. I also urge the Government to ensure that, after a decade of cuts, local authorities have the resources they need to play their crucial role in our economic recovery in the future.

Lord Greenhalgh: My Lords, attendance at COBRA is on an issue and topic basis, as opposed to a standing membership. On supporting local economies, it has to

be noted that £27 billion has been spent to support local areas, including £10.7 billion that has been paid out to 819,000 business properties. There are many other examples of government support and that will continue as we move into recovery.

Lord Kennedy of Southwark (Lab Co-op) [V]: My Lords, I declare my registered interest as a vice-president of the Local Government Association. Before the Covid-19 pandemic, our high streets and town centres were in crisis. There is a real fear that, even when it is safe to do so, many will never recover. What work are the Minister and his department doing with local government to develop a package of measures to get our high streets back on their feet and, when safe, encourage the public to use them?

Lord Greenhalgh: My Lords, the high street is the very heart of a local economy and a number of measures have been taken by the department. The places, urban centres and green spaces guidance which has been issued will help operators and owners on the high street and in our town centres. In addition, on 25 May the Government established a £50 million Reopening High Streets Safely Fund, as well as enabling an additional £6.1 million funding for business improvement districts in high streets and town centres.

The Lord Bishop of St Albans [V]: I declare my interest as a vice-president of the Local Government Association. What discussions have taken place about reviewing business rates, so that large online retail companies, which perhaps have no actual shops and many of which pay relatively small amounts of tax, do not have an unfair advantage over our small shops in our high streets which are under threat at the moment?

Lord Greenhalgh: The most important measure that has taken place during this pandemic is the deferral of business rates, and that is a significant measure to support businesses. I will have to write to the right reverend Prelate about the specifics on the review of business rates.

Baroness Verma (Con) [V]: My Lords, it is critical that businesses are included in the decision-making around reviving local economies. In my city of Leicester, many businesses have fallen through cracks because of poor communication from the council on the massive funding packages the Government have provided for businesses. Will my noble friend assure the business community that it will be closely involved in the recovery plans and that councils must demonstrate that what they are doing is open and transparent?

Lord Greenhalgh: My Lords, my noble friend makes the important point that, in any economic recovery, businesses will need to transform themselves and respond to the pandemic. It is fair to say that, when we looked at supporting the reopening of high streets, we engaged with businesses as well as the Association of Town and City Management. It is important to get all the stakeholders around the table so that guidance is appropriate and the support measures adequate.

Baroness Scott of Needham Market (LD) [V]: My Lords, the response to lockdown has shown that, where a full range of digital tools is available, people and businesses can locate almost anywhere. This could be transformative for rural economies, so will the Minister commit that, when we get details of the shared prosperity fund, there will a dedicated stream for rural areas that could work alongside new funds outlined in the Agriculture Bill?

Lord Greenhalgh: My Lords, I have already made the commitment that the UK shared prosperity fund will see no diminution in the support to enable us to level up our economy, including support for rural areas.

Baroness McIntosh of Pickering (Con) [V]: My Lords, will my noble friend join me in paying tribute to North Yorkshire County Council and the close partnership it has formed with the local LEP to ensure that local businesses are able to access the loans, funds and grants that the Government are so generously operating at this time? I invite him to press the case for recognition of rurality and the particular plight of microbusinesses in rural areas being able to access these funds—a not dissimilar question to that asked by the noble Baroness, Lady Scott of Needham Market.

Lord Greenhalgh: My noble friend raises an important point: support for the economy needs to include those microbusinesses in rural areas. The figures and support mechanisms indicate that a number of businesses have received support, whether it is by grant or by business premises rates deferral, but we will look specifically into those measures as well so that we support all businesses during this pandemic.

Viscount Waverley (CB) [V]: My Lords, technological innovation is key in this interconnected world. I follow others in their questioning; however, the Government's future fund appears more likely to favour larger enterprises, with SMEs possibly left behind. Will the Minister consider what role economic development departments in local authorities could play in allowing smaller businesses to benefit, thus promoting a more localised approach to economic recovery?

Lord Greenhalgh: My Lords, it should be noted that so far the grant scheme has gone to some 804,000 business premises. The spread of the economy for those who are self-employed, as well as small businesses, is quite considerable at this stage. I know, as a former local authority leader, that economic development is very important, not just for large businesses but for the small and medium-sized enterprises that are the backbone of this economy.

Baroness Crawley (Lab) [V]: While co-ordination between local and national government is essential for our recovery, are the Government also looking to be part of the European Union's €750 billion stimulus and recovery package, which, as the Minister will know, has a regional and local dimension?

Lord Greenhalgh: My Lords, I am not in a position to answer that directly. I know that we are moving towards establishing a free trade agreement and a deal with our European Union counterparts, as we are leaving the EU. I will write to the noble Baroness on that specific matter.

Baroness Bakewell of Hardington Mandeville (LD) [V]: My Lords, I too declare an interest as a vice-president of the LGA. Local government has a key role to play in the provision of cultural services, including museums, art galleries and theatres. All these play an important part in the recovery of the economy post Covid-19 and in the mental well-being of our population. What plans do the Government have to support councils to help them reopen these vital facilities?

Lord Greenhalgh: It is critical to support our cultural institutions, our museums and theatres and also the people who keep those places running. Many of them are self-employed, and access to funding has been granted to many people who are self-employed as well as through the furlough scheme. On the specifics, I am sure this will feature in the local government settlement that will be finalised in the next month or so.

Lord Kilclooney (CB): My Lords, while I recognise the importance of regions and local authorities in England towards the recovery of the United Kingdom economy, can the Minister confirm that there will also be consultations with the three devolved states in the United Kingdom—Scotland, Wales and Northern Ireland—which can contribute to the overall recovery of the United Kingdom economy?

Lord Greenhalgh: My Lords, the mission of this Government is to ensure that all four nations recover from the shock of this ghastly pandemic. Of course, there will be continued engagement and consultation with the devolved Administrations.

The Lord Speaker (Lord Fowler): My Lords, the time allowed for this Question has elapsed. We will now move to the third Oral Question, so I call the noble Lord, Lord Haskel.

Covid-19: Public Wealth Investment Fund

Question

11.27 am

Asked by ***Lord Haskel***

To ask Her Majesty's Government what plans they have to establish a public wealth investment fund to support those businesses affected by the COVID-19 pandemic.

The Minister of State, Cabinet Office and the Treasury (Lord Agnew of Oulton) (Con) [V]: My Lords, the Government have announced unprecedented support for public services, workers and businesses to protect them against the current economic emergency. Our interventions have been targeted to protect UK jobs while also protecting the taxpayer. Our aim is to protect the productive capacity of our economy and to enable a strong and sustainable recovery from this crisis. As we move through this crisis, the Government will continue to keep our economic response under review.

Lord Haskel (Lab) [V]: To rebuild our economy, the Government should listen to the many calling for our recovery through investment instead of paying down debt, which is where they seem to be concentrating. These are debts which some may never repay. Since I tabled my Question, investment ideas such as Project Birch have been floated, but will the Government make it clear that, in return for equity, firms should work towards our social objectives of responsible company behaviour, local levelling up and ensuring that all benefit?

Lord Agnew of Oulton [V]: I agree with the noble Lord that social benefit is an extremely important part of the recovery. To that end, we are consulting on our rules for public procurement at the moment to include social values as part of the scoring system.

Lord Livermore (Lab) [V]: My Lords, bold and ambitious schemes, such as a public wealth fund, will be necessary to support businesses in the medium term. However, we are seeing an immediate surge in insolvencies and job losses, and action is needed before such schemes can be established. What targeted help can the Minister offer the hardest-hit sectors of the economy, such as hospitality and tourism, which will take longer to reopen and recover?

Lord Agnew of Oulton [V]: Our first priority as a Government has been to try to protect the productive capacity of the economy, which is why we have one of the most generous furlough schemes in Europe. On the hospitality side, we have provided cash grants of £10,000 for properties with small rateable values of under £15,000, and cash grants of £25,000 for those with a rateable value of between £15,000 and £51,000. We will continue to monitor how the leisure sector recovers from this crisis.

Lord Purvis of Tweed (LD): At the time of the Budget, the OBR forecast that taxpayer losses in the RBS had increased to £4.7 billion compared to the Government's estimate of just two years ago. Would it not be better for British businesses across the UK to think more creatively about the use of our shares in RBS and to expand the role of the British Business Bank, established by Sir Vince Cable during the coalition, so that we can see the early stages of a genuine UK-wide investment wealth fund?

Lord Agnew of Oulton [V]: I agree with the noble Lord on the role of the British Business Bank, which has played an extremely important part in the economy over the last few years. It has given some £7 billion of finance to almost 95,000 SMEs and has been part

of the distribution for much of the support over the last few months. We will continue to review the greater part that it can play.

Lord Leigh of Hurley (Con) [V]: My Lords, I refer to my register of interests. There is no question that we need some sort of public wealth investment bank to replace CBILS—perhaps using the old model that 3i had. However, the BBB is not the answer. It does not have the mechanics, the experience or the expertise to make the direct investments in SMEs that are badly needed. Would my noble friend meet me and other practitioners to discuss the mechanics of how we can get relatively small equity investments into SMEs in the very near future?

Lord Agnew of Oulton [V]: I am very happy to meet my noble friend to discuss that, but I stress that we expect the private sector to step up to the mark in investing in these small businesses in future. We have the EIS and the SEIS, and we will continue to review them.

Lord Hastings of Scarisbrick (CB) [V]: My Lords, given the heightened and highly appropriate focus on justice and opportunity for black and minority communities, what considerations has the Treasury given to working with existing black business finance networks, such as the number one black lending and investment agency, Lendoe, led by Mr Demi Ariyo? Will the Minister chase a reply, due a month ago, to Mr Ariyo's letter to the Chancellor of 12 May, setting out practical and detailed advice on how to boost black business recovery?

Lord Agnew of Oulton [V]: I certainly commit to chasing up a reply to the letter that the noble Lord mentioned. Businesses run by the BAME community are of course vital to our economy.

Lord Liddle (Lab) [V]: My Lords, I want to press the Minister on the key point of principle in my noble friend Lord Haskel's excellent Question. Do the Government accept the need to set up a mechanism whereby the state can take equity stakes in overindebted companies? Do they accept that this is vital to what the Minister describes as safeguarding our productive capacity and to a strong and sustainable recovery? Does the Minister accept that the debate is not about whether this should happen but about how it should happen? The sooner we start talking about this, the better.

Lord Agnew of Oulton [V]: There are two parts to that question. First, on 20 May, we announced the future fund of an initial £250 million for co-investment with businesses. There has been enormous interest in that; some 460 applications have been made up to the end of May. On the noble Lord's reference to overindebted companies, we have to deal with the issue that the shareholders and management of those companies have contributed to that problem. They need to resolve the substantial concessions that they will have to make to their own equity, and to the lenders who have lent—and possibly overlent—to these businesses. There are two separate strands to this, but both will be active in future.

Lord Hussain (LD) [V]: My Lords, the Government have put millions of pounds aside to help businesses struggling due to Covid-19. How do the Government monitor the take-up of these funds by black and minority-ethnic businesses?

Lord Agnew of Oulton [V]: I will have to write to the noble Lord to provide specific information on that.

Viscount Trenchard (Con): My Lords, if the Government were to establish a sovereign wealth fund, might one of its objectives be to invest in major infrastructure projects, such as the currently suspended Horizon Nuclear Power project at Wylfa, Ynys Môn?

Lord Agnew of Oulton [V]: Infrastructure is a vital part of rebuilding from this crisis. I am unsure at this stage whether it will be done through the mechanism of a sovereign wealth fund. At the moment, we have the opportunity as a national Government to borrow cheaply, which, if invested well in infrastructure, could be a simpler approach than a sovereign wealth fund.

Lord Holmes of Richmond (Con) [V]: My Lords, we have a tremendous challenge but a real opportunity for an economic bounce out of Covid. It needs a whole-government, whole-economy approach. Will my noble friend salute the consultation currently being undertaken by the Bank of England around a central bank digital currency, and note the positive impact that this potentially could have for the whole of the country and the economy?

Lord Agnew of Oulton [V]: I certainly agree with the noble Lord that it is an extremely important consultation. As he implies, any serious crisis such as this gives the country a chance to look beyond the normal way of dealing with problems. I am very hopeful that initiatives such as he has mentioned will be much more evident over the next few months.

Baroness Altmann (Con) [V]: My Lords, I declare my interests and congratulate the Government on the establishment of the future fund. Would my noble friend consider encouraging the use of pension funds, as well as expanding the EIS and the SEIS, so that we can boost investment in smaller companies via equity, rather than debt, and increase the emphasis on social values?

Lord Agnew of Oulton [V]: I agree with the noble Baroness that pension funds in this country could play a much greater role in investing in early days businesses. The noble Baroness will know better than I that how we change the investment allocations that pension funds are allowed to take is a very complicated business, but I hope that we will continue to push the boundaries on that, because there is enormous potential.

The Lord Speaker (Lord Fowler): My Lords, the time allowed for this Question has elapsed.

Covid-19: UK-wide Discussions
Question

11.38 am

Asked by ***Lord McConnell of Glenscorrodale***

To ask Her Majesty's Government what discussions they have had with the Scottish, Welsh and Northern Irish Governments to coordinate a United Kingdom-wide approach to relaxing the restrictions in place to address the COVID-19 pandemic.

The Minister of State, Cabinet Office (Lord True) (Con) [V]: My Lords, the UK Government have worked closely with the devolved Administrations throughout this crisis. There have been discussions between Ministers and officials, and this engagement will continue. [*Inaudible.*] Citizens in Scotland, Wales and Northern Ireland should follow the equivalent guidelines issued by their respective Administrations.

Lord McConnell of Glenscorrodale (Lab): My Lords, the diversity of decision-making between the four nations of the UK, in particular regarding health, is an integral part of the devolution settlement and is to be welcomed, not criticised. However, the diversity in communicating public information has been woeful at times during the 12 weeks of this lockdown. To the best of my knowledge, there have been no joint simultaneous statements by the Prime Minister and the three First Ministers, and no joint simultaneous parliamentary or Written Statements by the Health or Business Ministers during this whole period. Will the Minister, on behalf of the Government, give a commitment to try to do better than this as we move out of lockdown and try to avoid a resurgence of the virus next winter? Can we ensure that, even where there are differences, we communicate with clarity why they exist, and ensure that each part of this United Kingdom knows exactly what the rules and regulations are in its area?

Lord True [V]: My Lords, the noble Lord makes an important point. [*Inaudible.*]

The Lord Speaker (Lord Fowler): I am sorry to interrupt but the reception is so bad on this Question that I ask the House to adjourn briefly, for five minutes, so that we can get the difficulties sorted out.

11.41 am

Sitting suspended.

11.53 am

The Lord Speaker: My Lords, in view of the circumstances, we will start again with the Question in the name of the noble Lord, Lord McConnell, and go on from there.

Lord McConnell of Glenscorrodale: My Lords, I beg leave to ask the Question standing in my name on the Order Paper.

Lord True [V]: My Lords, with apologies to the House, I will repeat the Answer I gave earlier. The United Kingdom Government have worked closely with the devolved Administrations throughout the crisis. There have been frequent discussions between Ministers and officials. This engagement will continue. As we set out in our road map to recovery, the virus may be spreading at different speeds across the United Kingdom, and measures may need to change in different ways and at different times. Citizens in Scotland, Wales and Northern Ireland should follow the equivalent guidance issued by their respective Administrations.

Lord McConnell of Glenscorrodale: My Lords, the divergence of decision-making during this lockdown period is something to celebrate, not criticise. It is an integral part of the devolution settlement and has made for better decision-making for each individual health service and other aspects of government in the four nations. However, at times, the public communication of those decisions has been woeful. The lack of co-ordination between the public announcements of the four Health Ministers and the four Business Ministers—and even between the Prime Minister and the three First Ministers—has created confusion and, occasionally, distress in the four nations. I urge the Minister to give a commitment on behalf of the Government to seek to improve this co-ordination of public information, communication and explanation as we emerge from lockdown and try to avoid a second spike or a resurgence of the virus in the winter.

Lord True [V]: My Lords, I understand the point that the noble Lord makes. He is right that there is a devolution settlement and that these matters are devolved. Clear communication to citizens has been a priority throughout the crisis. We have tried to make clear, and have made clear, which measures apply to citizens in each of England, Scotland, Wales and Northern Ireland, including through making this explicit in UK Government guidance.

Lord Mann (Non-Afl): My Lords, many families are spread across the United Kingdom. Does the Minister agree that, when it comes to the opportunity for families to reunite in person, the more integrated the approach across the United Kingdom, the fairer and better it will be for everyone?

Lord True [V]: My Lords, I think that the noble Lord strikes a chord with every citizen in this country when he speaks of the importance of family and the sacrifices that families have had to make. We are seeking to confront the virus as one United Kingdom. I welcome the fact that, in different places, it is now easier for family members to reunite than it was at the start of the lockdown. But I take the noble Lord's point. We will always seek to proceed out of this crisis as a United Kingdom.

Lord Davies of Gower (Con) [V]: My Lords, the co-ordination between certain departments of Her Majesty's Government and the devolved Governments of the UK has been a little confusing. Aviation is an example of a reserved matter. However, two weeks ago, the Secretary of State for Transport announced that general aviation could happen again because it was determined that the risk of contributing to increased infection was minimal. As a reserved matter, it follows that the DfT has a UK-wide responsibility for GA, yet only last week, pilots in Scotland were permitted to take to the skies while those in Wales and Northern Ireland are still waiting for the go-ahead. What discussions, if any, are taking place between the Government and the devolved Administrations about achieving a consistent UK-wide approach to general aviation?

Lord True [V]: My Lords, I fear that I am not a specialist in aviation matters, but I will write to the noble Lord on this important topic.

Lord Eames (CB) [V]: My Lords, at present, who in government is responsible for co-ordinating contact with the devolved nations? Lately, on at least one occasion, one of the devolved Administrations learned of a policy decision by central government involving public health issues from the media. Is that acceptable?

Lord True [V]: My Lords, good communication should always be striven for. That is the Government's objective. At the outset of the crisis, the United Kingdom Government established a Cabinet committee structure to deal with the health, economic, public sector and international impacts of Covid-19 on behalf of the whole of the UK. Ministers from the devolved Administrations have regularly been invited to participate in these discussions. We are certainly committed to ensuring that the Administrations are informed and involved at every stage.

Baroness Andrews (Lab) [V]: My Lords, further to the Minister's reply, can he now tell the House why the Secretary of State did not inform, let alone consult, the First Minister of Wales—as a matter of courtesy, let alone practicality—that he was planning to make face masks mandatory on public transport? The First Minister has put it this way:

"We're going to have to … find out from them the extent to which they have got answers to these questions, in advance of making the decision, or whether it's a matter of making the headline, and then worrying about the detail afterwards."

Lord True [V]: My Lords, I note what the noble Baroness says, but Welsh government officials and Ministers have been involved in COBRA meetings, committees and dozens of other meetings with UK government Ministers and officials since the pandemic began. This will continue to be a key part of the planning and communication of the overall response. We strive to do the best at all times. If there are failures, they are to be regretted, but we should go forward together as a United Kingdom.

Baroness Humphreys (LD) [V]: My Lords, a recent Welsh political barometer poll showed that by a margin of four to one the Welsh public strongly prefer the Welsh Government's approach to easing the lockdown. Does the Minister not agree that this pandemic has shown the ability of the devolved Administrations not only to work differently but to achieve better outcomes in response to the needs of their citizens?

Lord True [V]: My Lords, the purpose of the devolution settlement is to enable the devolved Administrations to respond as they believe right to local needs. I repeat that I believe that there is a high level of co-ordination, co-operation and understanding between all authorities involved in fighting this crisis.

Lord Mancroft (Con) [V]: My Lords, in recognising the need to co-ordinate between the Government and the devolved Administrations, does my noble friend recognise that the requirement for two-metre social distancing above all else is preventing us reopening our economy? Can my noble friend tell the House what research the Government have that leads them to a different conclusion from the World Health Organization and most European Governments, which recommend one or 1.5-metre social distancing? What steps are the Government taking to reduce this from two metres, and when?

Lord True [V]: My Lords, the Government are guided by science at all stages of the crisis; the advice we have given has been on that basis. The advice is constantly under review by SAGE, but I can give no guarantees as to when or whether any change will be announced.

Lord Bilimoria (CB): My Lords, the Secretary of State for Health has assured us that all care home workers and patients will be tested. Can the Minister confirm that this has taken place throughout the United Kingdom? Is he aware that in Scotland, sadly, coronavirus deaths have now overtaken hospital deaths, with 46% of deaths in Scotland in care homes versus 29% in England and Wales? Surely the Minister agrees that testing patients and care workers in care homes throughout the whole of the UK should be an immediate priority for the Government.

Lord True [V]: My Lords, I cannot add to what my right honourable friend the Secretary of State for Health said, but I can underline one's concern for every resident of care homes. As my right honourable friend said, that testing is available. He announced yesterday evening that the testing will be extended to a wider range of care homes, not only those for the elderly.

Baroness Thornton (Lab) [V]: Following on from my noble friend Lady Andrews's question, the Minister might take on board that there are some definite communication difficulties from the centre to Wales. What specifically will the Government do to ensure

[Baroness Thornton]
that people living on the long border between England and Wales understand and abide by the different lockdown rules?

Lord True [V]: My Lords, regardless of where a person lives, if they are in Wales, they are subject to Welsh rules, and vice versa if they are in England. That is a clear position and one that I reiterate.

The Lord Speaker (Lord Fowler): My Lords, the time allowed for this Question has now elapsed; I thank noble Lords for taking part today. That concludes the hybrid proceedings on Oral Questions.

12.05 pm

Sitting suspended.

Arrangement of Business

Announcement

12.09 pm

The Deputy Speaker (Lord Duncan of Springbank) (Con): My Lords, a limited number of Members are here in the Chamber, respecting social distancing, and if the capacity of the Chamber is exceeded I will immediately adjourn the House. Other Members will participate remotely, but all Members will be treated equally wherever they are. For Members participating remotely, microphones will unmute shortly before they are to speak. Please accept any on-screen prompt to unmute. Microphones will be muted after each speech. I ask noble Lords to be patient if there are any short delays as we switch between physical and remote participants. I remind the House that our normal courtesies in debate still very much apply in this new hybrid way of working. Please ensure that questions and answers are short.

EU: Trade and Security Partnership

Private Notice Question

12.10 pm

Asked by ***Baroness Hayter of Kentish Town***

To ask Her Majesty's Government what progress was made in securing a comprehensive trade and security partnership during the last round of negotiations with the European Union

The Minister of State, Cabinet Office (Lord True) (Con) [V]: My Lords, negotiators from the United Kingdom and the European Union held full and constructive discussions last week via video conference. The talks covered trade in goods and services, fisheries, law enforcement and criminal justice, and other issues which both sides engaged in constructively. There was, however, no movement on the most difficult areas where differences of principle are at their most acute, notably fisheries, governance arrangements and the so-called level playing field.

Baroness Hayter of Kentish Town (Lab): I regret that no Statement has been made here or in the Commons. Thus, we have to drag the Minister here, if you like, to report on even that much. This is not the parliamentary scrutiny promised. This was a vital round of talks, but there has been little sign of movement, as the Minister said, towards agreement. Could he explain why the Government expect only the EU to compromise in order to reach a deal without being willing to do so themselves?

Lord True [V]: My Lords, we are in a negotiation. The Government remain committed to a successful outcome. We believe it would still be straightforward to agree a suite of arrangements with an FTA at its core. Our position needs to be understood: we will not agree to any of the EU's demands for us to give up our rights as an independent state.

Lord Howard of Rising (Con) [V]: Could the Minister say when reporting progress whether the attitude of European Union negotiators has created such difficulties during discussions that the possibilities or chances of finding common ground in many areas, such as the level playing field or fishing, have become virtually impossible? The inability of European Union negotiators to recognise that the United Kingdom is a sovereign and independent nation and to treat Great Britain as such is making compromises impossible, and will continue to do so until such time as European Union negotiators understand that Great Britain is not a colony of the European Union.

Lord True [V]: My Lords, I will not criticise the negotiators on either side; they have their mandates and both have said that they find the discussions professional and appropriate. However, my noble friend is quite right to say that on certain matters, as I think Mr Frost said, the EU must evolve an understanding that the United Kingdom is not prepared to accept the so-called level playing field or, indeed, to accept that we cannot be an independent coastal state regarding fisheries.

Baroness Ludford (LD) [V]: My Lords, the Conservative Party has long regarded itself, justifiably or not, as the party that looks after business, so can the Minister tell us why this Conservative Government are so apparently casual about the prospect of a no-deal crash-out on 31 December, despite alarmed warnings from business representatives such as the CBI, from hauliers about the lack of customs preparation at Dover, from the pharmaceutical industry about dangerously low stocks of drugs, from the business community in Northern Ireland about lack of detailed preparation for implementation of the Irish protocol, and from many others? Why is ideology trumping pragmatism?

Lord True [V]: There is no ideology. This is a pragmatic Government. We have close contact with business, which will intensify and continue. There is no crash-out no deal. We will leave the EU at the end of the year with either a Canada-style or an Australia-style arrangement.

Lord Thomas of Cwmgiedd (CB) [V]: Can the Minister explain the steps the UK Government are taking to involve the devolved Governments in formulating positions to be taken in the negotiations in the light of the many assurances given by the UK Government about involving the devolved Governments?

Lord True [V]: My Lords, there is regular contact between government Ministers and Ministers in the devolved Administrations. Those contacts will continue.

The Earl of Kinnoull (Non-Afl) [V]: My Lords, Michel Barnier, in his statement of 5 June, following the fourth round of negotiations, referred to the need to have

"a full legal text by 31 October at the latest, i.e. in less than 5 months."

Does the Minister agree with that timetable? If not, what does he think the latest date is for a full legal text?

Lord True [V]: My Lords, the Government still hope to have a successful outcome, as I said. Mr Frost indicated some measures that might be taken to intensify discussions. There will also be, as noble Lords know, a high-level meeting later this month.

Baroness Primarolo (Lab) [V]: My Lords, David Frost told the European Union Select Committee of your Lordships' House, when asked specifically about access to EU databases, that

"we cannot accept the conditions that the EU imposes".

How confident, therefore, is the Minister that a broad outline on data exchange and intelligence-led policing in the UK will be reached by the end of June when the Government appear to expect the European Union to compromise to meet a deal without being willing, as my noble friend Lady Hayter said, to do so themselves?

Lord True [V]: My Lords, we are in a negotiation. I will not second-guess what might or might not happen in the course of it. All the areas, including policing and security, which the noble Baroness mentioned, are, of course, important. Those will continue to be the subject of discussions between the Governments.

Baroness Meyer (Con) [V]: Given that the EU appears determined to bind the UK into the common fisheries policy and its own rules and standards, does the Minister not agree that there would actually be negotiating advantage in not reaching an agreement before the end of the transition period so that the EU would be forced to accept the reality of the UK as an independent and sovereign state?

Lord True [V]: I thank my noble friend for the question, but again, I am not going to second-guess the process of negotiations. I note that, on fish, the political declaration clearly set out that a separate agreement should be enforced in July ahead of the other agreements. The EU, on the other hand, continues to push for one single overarching agreement.

Lord Wallace of Saltaire (LD) [V]: My Lords, the February document that the Government published on the future relationship included a chapter on digital services that sets out that we need to

"encourage regulatory cooperation and a strategic dialogue on emerging technologies".

I could not find this in the items for discussion in the fourth round of negotiations, nor does any progress seem to have been made on it. Are the Government hoping that we will continue to have regulatory co-operation in this very important emerging industry? As a fallback position, are they discussing with the Americans whether we will converge on American data regulation rather than European regulations if these negotiations break down?

Lord True [V]: My Lords, the noble Lord is right: there is an international dimension to these questions. We expect foreign policy co-operation broadly to be substantial with the EU, as it is with many of our international partners, but we do not think that an institutional framework is necessary to deliver it.

Baroness Deech (CB) [V]: Will the Minister join me in encouraging Mr Frost to stand firm and make it clear that we are willing to walk away if necessary? Can he also emphasise that after Brexit we must retain sovereignty over our defence and foreign policy? Given the EU's ineffectiveness in relation to hostility from China and its overdependence on Russian gas regarding Nord Stream 2, can he ensure that we depart from EU defence structures and defence funds and reinforce our partnership with NATO and the Five Eyes intelligence group?

Lord True [V]: My Lords, the noble Baroness refers to some very important factors in our international relationships. Mr Frost is doing an excellent job for his country, in line with the decisions of Parliament and the people. As for wider foreign policy, I alluded to that in the previous answer.

Lord Howarth of Newport (Lab) [V]: My Lords, as the EU grasps that we will not extend the transition period, will it not recognise that it is very much in its own economic interests to set aside ideology and make a free trade deal? In any case, is it not absolutely in our interest not to be tied into contributing billions to the Commission's new budget and subsidising a eurozone economy that was in dire trouble even before the pandemic?

Lord True [V]: My Lords, I try not to criticise any aspect of the European Union from this Dispatch Box but, that apart, I agree with that the noble Lord has just said.

Lord Bowness (Con) [V]: Does my noble friend the Minister accept that we signed a political declaration? Do the Government still consider themselves bound by that declaration, which reflected the fact that. while we keep talking about being a sovereign nation, we have nevertheless been involved deeply with the EU over the last 40-plus years? That reflects many of the

[LORD BOWNESS]
existing arrangements. Secondly, when will the Joint Committee next meet? Will it recognise that the circumstances are now totally different from those at the time of the referendum—or indeed the general election—and that an extension is badly needed to achieve what the parties want by way of future relations?

Lord True [V]: My Lords, the Withdrawal Agreement Joint Committee next meets on 12 June. I repeat that the Government do not consider an extension of the transition necessary or desirable. It will not happen from a UK Government point of view. The political declaration sets out the potential scope of our future relationship. We and the EU signed up to it, but any agreement based on it must be balanced and represent a balance of benefits to both sides.

The Deputy Speaker (Lord Duncan of Springbank) (Con): Lord Kerr of Kinlochard? No? Lord West of Spithead.

Lord West of Spithead (Lab) [V]: My Lords, a lightning rod for EU seriousness on defence and security co-operation is Project Galileo. Is it still the intention to have scientific, technological and industrial UK involvement in this project, despite lack of access to the classified output of the system?

Lord True [V]: My Lords, the UK and the EU discussed Project Galileo during the withdrawal agreement negotiations. The EU's offer on it then did not meet the United Kingdom's defence and industrial requirements.

Arrangement of Business

Announcement

12.24 pm

The Deputy Speaker (Lord Duncan of Springbank) (Con): My Lords, we now come to the Conduct Committee Motion in the name of the noble and learned Lord, Lord Mance. Last week, the Procedure Committee agreed that this type of business should be conducted as physical proceedings only, with no opportunity to participate virtually, other than by the mover, in this case the noble and learned Lord, Lord Mance. There is no speakers' list, but Members present in the Chamber are entitled to participate. Procedure Committee guidance requests that any Member intending to speak on such Motions give notice in advance. If the capacity of the Chamber is exceeded, I will immediately adjourn the House.

Conduct Committee

Motion to Agree

12.24 pm

Moved by ***Lord Mance***

That the Report from the Select Committee *Remote voting and the Code of Conduct* (2nd Report, HL Paper 67) be agreed to.

Lord Mance (CB) [V]: My Lords, this is a short report. It focuses on the single issue of the misuse of the electronic voting system to be introduced into this House with effect from the beginning of next week. Normally, it is impossible for Members to misuse the voting system. They must attend in person, in the Division Lobbies, and be counted by a Teller, or in the Chamber and give their name to a Clerk. Tellers and Clerks recognise them, or certainly recognise someone who is not a Member of the House.

However, there is more scope to misuse a remote voting system. A distinct possibility, which concerns have been expressed about, is that a Member might ask someone to cast their vote for them. It is the view of the Conduct Committee that this should be a breach of the Code of Conduct—that any Member who allows another to vote on their behalf should breach the code. Having someone vote on behalf of a Member should be considered a serious breach of the code, and we propose this amendment to the Code of Conduct accordingly. I beg to move.

Lord Newby (LD): My Lords, in normal times a suggestion that your Lordships' House might move to electronic voting would occasion many days and hours of debate, in Committee and in the Chamber. This Motion is merely a supplementary or consequential Motion to the Motion we passed last week to introduce this revolutionary change with literally zero debate. Having sat through many discussions on minor changes to voting procedure, most of which failed through lack of consensus, I welcome this change, because it is a common-sense change. I congratulate all those who have worked so hard to put it in place so quickly and look forward to taking part in votes on this basis from next week.

We saw in the House of Commons a similar process adopted for a couple of weeks, then dropped. I very much hope that this change will not be dropped with such alacrity and that we will at the very least keep it in place while there are Members of your Lordships' House who, for health reasons, are unable to attend. There may be arguments for keeping it in place for at least some people permanently, but I suspect that discussions about how we get out of this system will take a lot longer than the virtual lack of discussion about how we got into it. I am very pleased that we are doing this, and I am happy to support the Motion.

Lord Truscott (Ind Lab): My Lords, like the noble Lord, Lord Newby, I support the report from the noble and learned Lord, Lord Mance, and the Conduct Committee, on remote voting. However, unlike the noble Lord, Lord Newby, I would be slightly concerned about remote voting in this House in the long term. It is essential for democracy that Members interact with one another in the Chamber and in the House, so that they can crystallise their views and opinions on the issues that come before the House, but I realise that the House has already voted for remote voting, for very good reasons.

The noble Lord, Lord Newby, and the noble and learned Lord, Lord Mance, made another point about electronic voting. I was a Member of the European

Parliament when there were concerns about and cases of alleged misuse of electronic voting, so the Conduct Committee is right to be concerned about this matter. For that reason, I too support the report.

Lord Mance [V]: My Lords, I am grateful for the comments made by the noble Lords. The noble Lord, Lord Newby, rightly said that this is a supplemental measure. It is relevant while we have remote voting. I will not comment on whether it should be indefinite or, as it is at the moment, limited to the crisis in intention.

Motion agreed.

Recess Dates
Announcement

12.29 pm

Lord Ashton of Hyde (Con): My Lords, I thought that this would be a suitable point to tell the House about recess dates and to confirm that, because of the inevitably slow progress of business over the past three months, there will need to be some changes to our Summer Recess dates. We will now rise for the summer adjournment on Wednesday 29 July, which is one week later than originally intended. We will also return earlier in September, on Wednesday 2 September. There will no longer be an adjournment for the party conference season.

I hope to be able, at a later date, to confirm a short adjournment in either October or November, but that will depend entirely on the progress of business. I will place a copy of this statement in the Printed Paper Office, and copies are available in the Royal Gallery. I will advertise the new dates via this week's *Forthcoming Business*.

Lord Stoneham of Droxford (LD): Having been part of the initial discussions on this, I wanted to ask about the fact that we are coming back in midweek. It seems rather odd that we will finish on a Wednesday and then come back on a Wednesday. Would it not seem better to go on until the Thursday and then not come back until the week after the Chief Whip is proposing, given the expense of getting people here and the inconvenience of having broken weeks?

Lord Ashton of Hyde: My Lords, I agree that it does immediately look odd, but the reasons are that we have looked at the business that needs to be done and the dates that would allow it. The amount of time that has to pass between different stages of Bills means that it is imperative that we come back that week. I accept that for some people, myself included, it will cause difficulties, but we have looked at that. Of course, if circumstances change and we make tremendous progress, we could look at it again, but that has been communicated to the usual channels. The reason that we need to come back for those two days is to get business started during that week, but I am entirely able to look at that at a later date if it is not necessary. I take the point about two days in a week basically disrupting the whole week.

Baroness Hayter of Kentish Town (Lab): I do not think that I misheard the Chief Whip, but can he indicate whether these are the same dates as the House of Commons will sit? From the nodding, it looks as if they are. I will let him answer; obviously, we understand the need to get on with legislation. However, it has always been of some interest that we should sit the same days as the Commons, wherever that is possible.

Lord Ashton of Hyde: The House of Commons has not announced its recess dates yet. I wanted to make sure that, as far as we were concerned, noble Lords had the earliest possible opportunity to plan. I can see why we should be aligned with the House of Commons to a certain extent, but it is an important principle that we do not always have to sit at the same time as the House of Commons. Sometimes the Commons is at a different stage of legislation from us, so every Chief Whip reserves the right to alter dates due to the progress of business. I do not know when the House of Commons is going to announce its dates, but it has not done so yet, so I cannot confirm whether they are exactly the same.

Baroness Hayter of Kentish Town: I am very content with that and, as I say, we understand the need for this. It does mess up my holiday, but even I might forgive the Chief Whip for that—for once.

12.34 pm

Sitting suspended.

Arrangement of Business
Announcement

12.39 pm

The Deputy Speaker (Lord Duncan of Springbank) (Con): My Lords, we now come to the repeat of a Commons Urgent Question on the R rate. For Members participating remotely, microphones will unmute shortly before they are to speak. Please accept any on-screen prompt to unmute. I remind the House that our normal courtesies in debate still apply in this new hybrid way of working.

Covid-19: R Rate and Lockdown Measures
Commons Urgent Question

The following Answer to an Urgent Question was given on Monday 8 June in the House of Commons.

"Thank you, Mr Speaker, for this opportunity to update the House on progress on our plans for controlling coronavirus.

Thanks to the immense national effort on social distancing, as a country we have made real progress in reducing the number of new infections. As we move out of lockdown, we look at all indicators to assess

[Lord Duncan of Springbank]
progress in tackling the virus. Last week's Office for National Statistics infection survey estimated that the number of people who have had coronavirus in England fell from 139,000 between 3 and 16 May to 53,000 between 17 and 30 May—a drop of over half. In terms of new cases, an ONS estimate released on Friday shows that there are now around 5,600 new cases each day within the community in England: a huge drop since the peak.

The number of new fatalities each day is, thankfully, falling too. Today's figures record 55 fatalities, the lowest number since 21 March, before lockdown began. They also show that there were no deaths recorded in London hospitals. That is a real milestone for the capital, which, of course, in the early stages of the pandemic, faced the biggest peak. Yesterday, we saw no recorded deaths in Scotland, which is very positive news for us all. Sadly, we expect more fatalities in the future, not least because the figures recorded at the weekend are typically lower. What is more, Mr Speaker, 55 deaths is still 55 too many and hundreds of people are still fighting for their lives. Each death brings just as much sadness as when the figure was much higher in the peak. I know that the thoughts of the whole House are with those families and communities who are grieving for their loved ones.

We, of course, also look at the R rate. The Scientific Advisory Group for Emergencies confirmed on Friday that its estimates, taking into account 10 different models, are that R remains between 0.7 to 0.9, and that it is below 1 in every region of the country. That means that the number of new infections is expected to continue to fall. So there are encouraging trends on all critical measures. Coronavirus is in retreat across the land. Our plan is working and those downward trends mean that we can proceed with our plans, but we do so putting caution and safety first.

Even at the peak of the pandemic, we protected the NHS and ensured that it was not overwhelmed. We will not allow a second peak that overwhelms the NHS. We are bearing down on the virus in our communities, aided by our new NHS Test and Trace system, which is growing every day. We are bearing down on infections in our hospitals, including through the new measures to tackle nosocomial infection, such as face masks for visitors, patients and staff. Finally, we are strengthening protections for our care homes, including by getting tests to all elderly care home residents and staff.

I am glad to be able to tell the House that David Pearson, the eminent social care expert who has previously led the social care body ADASS—the Association of Directors of Adult Social Services—and has decades of experience of leadership in both social care and public health, will be chairing our new social care taskforce to drive our Covid action plan yet further. David has an impressive track record and I am delighted that he will be supporting us in leading this important work. Together, we are getting this virus under control and now more than ever we must not lose our resolve."

12.40 pm

Baroness Thornton (Lab) [V]: First, will the Minister say what weight the Government attach to the science presented in the figures that the Centre for the Mathematical Modelling of Infectious Diseases at the London School of Hygiene & Tropical Medicine published, which state that R is above one in the south-west and north-west of England? Secondly, the regularly estimated national R rate appears to be a key driver of policy; accurate measurement of R depends on a world-class testing regime, not yet in place; the likelihood is that some geographical areas may have an R close to or above one; and effective local control measures rely on knowing the local R rate. Given all that, when will the system for more accurate measurements of R agreed with the relevant local authorities be available by localities, so that this information can be used to inform and adapt the emerging local planning led by directors of public health?

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Bethell) (Con) [V]: The London School of Hygiene & Tropical Medicine's report is one model of more than a dozen that contribute to the SPI-M committee, which looks at modelling. We value it, but it is not the only model. Regarding the statistical analysis of R, I pay tribute to the Office for National Statistics, which has put in place a massive testing programme to look at prevalence across the country. Hundreds of thousands of tests are done. This is by far the gold standard in terms of understanding prevalence and it feeds in accurate, up-to-date information for the accurate assessment—not modelling—of R0. It is on that work that we depend.

Baroness Brinton (LD) [V]: On 3 June, my noble friend Lord Scriven asked the Minister which body had legal powers to implement a local lockdown. The Minister replied:

"The arrangements for local lockdowns are not fully in place. In fact, the policy around them is in development and a full decision has not been made".—[*Official Report*, 3/6/20; col. 1428.]

Five days on, local authorities and directors of public health are reporting publicly that their hands are tied without the postcode data they need or the specific powers for lockdown. When will this vital decision be made so that flare-ups of Covid can be stopped?

Lord Bethell [V]: The work is being undertaken at the moment. Rather than focusing on local lockdowns, we are focusing on local action plans with a wide variety of measures, perhaps including behavioural changes as well as clinical and diagnostic interventions. It is only by working across the piece that local actors, such as local authorities, directors of public health and local infection directors, can implement the right array of measures. That holistic approach is the one we are pursuing.

Lord Crisp (CB) [V]: My Lords, many academics are warning of the likelihood of a second wave of the virus, and there is some evidence that it is already happening in other countries. I appreciate that the Government seek to avoid that, but what is their

assessment of the likelihood of a second wave, what lessons have they learned from their first experience of lockdown, and what planning are they doing for a second wave nationally and regionally?

Lord Bethell [V]: The fear of a second wave is profound. We have seen what happened in Singapore and we remain vigilant. However, enormous progress is being made against the epidemic, as the noble Lord will have seen from recent figures. We have put in huge infrastructure to protect ourselves in the winter, which is the moment of greatest anxiety. That includes Europe's biggest testing programme, stockpiling medicines, upgrading NHS capacity, the recruitment of returning staff to the NHS and—as I mentioned to the noble Baroness, Lady Brinton—the implementation of a local action plan regime which will give teeth to our measures on a local basis.

Lord Robathan (Con) [V]: As my noble friend has admitted, the scientific advice and modelling have been confused, often contradictory and changing as nobody knows a lot about this virus or its progress. Many believe that the virus arrived here as early as November and has swept through the population, often without symptoms. The figures for deaths may be too low or too high because nobody really knows. We have mortgaged this country's future and our children's future on uncertain science. The Health Secretary has now described the virus as

"in retreat across the land".

Will the Government lift all lockdowns now, or as soon as possible, as has happened in New Zealand? Let us all hope the entire lockdown was not a catastrophic error.

Lord Bethell [V]: I share my noble friend's frustration that this disease has proved a horrid and at times confusing foe, but I testify to the strength of the scientific advice we have been given. We do not expect scientists to agree. We believe that a degree of conflict is the right approach to trying to find the right answer. The role of the CMO and the Government's chief scientist is to distil the advice of a great many sources into the best possible advice. We expect there to be a dialectic, with some form of conflict. I do not believe that we have made profound mistakes on the science. In fact, I believe that the scientists have been wise and thoughtful in the advice and recommendations that they have given us.

Baroness Pitkeathley (Lab) [V]: The Minister will know from research published yesterday by Carers UK—I declare an interest as a vice-president—that more than 4 million extra people have taken on caring roles at home for family and friends during the pandemic. Following the question asked by the noble Lord, Lord Crisp, I ask: in the event of a second wave, how will the Government ensure that these carers are provided with adequate PPE and access to services?

Lord Bethell [V]: I share the noble Baroness's tribute to the nation's carers. This week is Carers Week, and it is quite right that the House pays tribute to the contribution of all those who have looked after loved ones and neighbours in the manner she described so well. Support for carers has been at the front of our minds, but she rightly reminds us that we could do more in a second wave, and we are looking hard at ways of developing that support in the months to come.

Lord Mann (Non-Afl): What discussions have Ministers had with their German counterparts about the success of the German test and trace system?

Lord Bethell [V]: I have conversations with the German Government, medical authorities and diagnostic industry on a very regular basis. I have a fortnightly call with my counterpart in the German health system. It is true that Germany had a more developed and more local testing facility than the British at the beginning of the epidemic, but since then we have built up our capacity dramatically and we regularly do more tests than our German counterparts at the moment. The testing regime being developed is already delivering fantastic results that match those of many countries.

Lord Bilimoria (CB): My Lords, given that the R rate is now below one across the UK, will the Minister acknowledge that the risk of infection from reducing social distancing from two metres to one metre goes from 1.3% to 2.6% and that the WHO is recommending one metre as safe? Denmark, France, Singapore, China, Hong Kong and Lithuania have moved to one metre. A pub or restaurant can barely open with a social distancing rule of two metres, being able to operate at only 30%; with one metre, they could operate at over 70%. At one metre, you can have four times as many people in a space as at two metres. It is the difference between being in business and going out of business for the hospitality industry, which employs 3.5 million people, let alone for theatres, cinemas and the university sector. Now that the Government are saying that masks are to be worn on public transport, and given the PPE measures within the sector, does the Minister not agree that we need to get the economy back and working as soon as possible, safely?

Lord Bethell [V]: I completely agree with the noble Lord that we need to get the economy back, and I very much agree with his last word—safely. The CMO's advice is very clear that social distancing of two metres makes a very big difference compared with one metre. When the time comes to move from two metres to one metre, we will very clear about that moment, and I, for one, will celebrate the reopening of restaurants and pubs, which are a source of great joy and happiness for the nation.

The Deputy Speaker (Lord Duncan of Springbank) (Con): My Lords, the time allowed for questions has now elapsed.

12.50 pm

Sitting suspended.

Arrangement of Business

Announcement

12.56 pm

The Deputy Speaker (Lord Alderdice) (LD): My Lords, we now come to the repeat of the Statement on public order. For Members participating remotely, microphones will unmute shortly before they are to speak. Please accept any on-screen prompt to unmute. I remind Members that our normal courtesies in debate still apply in this new hybrid way of working.

It has been agreed in the usual channels to dispense with the reading of the Statement itself, and we will proceed immediately to questions from the Opposition Front Bench.

Public Order

Statement

The following Statement was given on Monday 8 June in the House of Commons.

"With permission, Madam Deputy Speaker, I would like to make a Statement on public order. Like all Members of this House, I was sickened at George Floyd's tragic death. His treatment at the hands of the United States police was appalling and speaks to the sense of injustice experienced by minority communities around the world. I fully appreciate the strength of feeling over his senseless killing, the inequality that black people can sadly still face, and the deep-seated desire for change. I know that it is that sense of injustice that has driven people to take to the UK streets to protest.

This Government are clear that racism and discrimination in any form have no place in our society, and we will do whatever is required to eradicate it. Of course, there is more we can do. There is more that we should all do to combat inequalities across society, to support those seeking social justice and better life chances and to offer hope, but all too often, too many are confronted by despair. It is right in any democracy, in an open and free society, that we advance these issues in a constructive, sensitive and responsible way.

The Government understand the importance of the right to protest. In normal circumstances, a large and peaceful protest would not be of concern to the authorities, because we live in a great country where our right to protest and to have our voice heard is integral to our fundamental democratic freedoms. The right to come together and express our views peacefully remains one of the cornerstones of our great democracy. Members across the House share an enduring commitment to uphold liberty and freedom of expression, on the basis of respecting the rule of law. As our nation battles coronavirus, however, these are not normal circumstances, so to protect us all and to stop the spread of this deadly disease, any large gatherings of people are currently unlawful. We cannot afford to forget that we are still in the grip of an unprecedented national health emergency that has tragically claimed more than 40,000 lives, so the severe public health risk forces me to continue to urge the public not to attend future protests. The Government's scientific and medically led advice remains clear and consistent. No matter how important the cause, protesting in large numbers at this exceptional time is illegal, and doing so puts everyone's lives at risk.

Let me turn to an operational update. Around 200 protests took place across the country over the weekend, attended by over 100,000 people. As many as 137,500 people have now attended Black Lives Matter protests across the UK. While the majority were peaceful, a lawless minority of protesters have regrettably turned to violence. The worst violence flared in London on Saturday evening, with missiles and flares being thrown at police officers outside Downing Street. Officers in protective equipment were deployed to arrest the culprits and to clear the area. At least 35 officers have now been injured during the protests in the capital. I salute their bravery and wish them a swift recovery. The thugs and criminals responsible are already being brought to justice. This is a fluid situation, but as of this morning the total number of arrests stood at 135.

As the ugly tally of officer assaults shows, some protestors, regrettably, turned to violence and abusive behaviour at the weekend. This hooliganism is utterly indefensible; there is no justification for it. There is no excuse for pelting flares at brave officers, throwing bikes at police horses, attempting to disrespect the Cenotaph or vandalising the statue of Winston Churchill, one of the greatest protectors of our freedoms who has ever lived. It is not for mobs to tear down statues and cause criminal damage in our streets, and it is not acceptable for thugs to racially abuse black police officers for doing their jobs. The criminals responsible for these unlawful and reckless acts are betraying the very cause they purport to serve. These protests are about injustice, but by attacking our courageous police they are acting in a wholly unjust way.

When I became Home Secretary, I vowed to back the police. I said that I would stand with the brave men and women of our police and security services, and against the criminals. I stand by that today, proudly and without apology, because, as we saw at the weekend, we ask our frontline police officers to do the most difficult of jobs: to run towards danger to ensure that we are not in danger; to put their own lives on the line to protect the public; and to uphold the rule of law and the rights of individuals against the disorder that we have seen in recent days. By doing that, the police in our country give us all the very security we need to live our lives as we choose.

That is an essential part of our freedom, because violence, disorder and crime blight communities and society as a whole. So, the police need to know that they have a Prime Minister, a Home Secretary and a Government who stand with them and will give them the tools, powers and resources they need to keep us safe—and they do. Police funding has had its biggest uplift in a decade, increasing by more than £1 billion, and we are recruiting an additional 20,000 police officers to keep our streets and our country safe. They will have my full support in upholding the rule of law, and in tackling violence, vandalism and disorderly criminal behaviour. I could not be clearer: I want to see the violent minority responsible arrested and brought to justice.

I agree with the many peaceful protestors that racism has absolutely no place in our society. Black lives matter, but police brutality in the United States is no excuse for the violence against our brave police officers at home. So, to the quiet law-abiding majority who are appalled by this violence and who have continued to live their lives within the rules, I say: 'I hear you.' To the police, who have been subject to the most dreadful abuse, I say: 'You have my full backing as you act proportionately, fairly and courageously to maintain law and order.' And to the criminal minority who have subverted this cause with their thuggery, I simply say this: 'Your behaviour is shameful and you will face justice.' I commend this Statement to the House."

12.57 pm

Lord Rosser (Lab) [V]: First, I express our sincere wishes for a full recovery to, I believe, the 35 officers who suffered injuries, as well as to a protestor who, I understand, was also injured. The violence and vandalism were unacceptable and can only be condemned. Police work involves the risk of danger to officers, but gratuitous and reckless attacks on the police of the kind we saw in London should not be accepted as a risk of the job. We pay tribute to the police officers who put themselves in harm's way on our behalf.

When it comes to the statue of Edward Colston, I do not condone an act of criminal damage to remove it, but I will not miss a public statue of a slave trader. It should have been taken down many years ago.

The figures in the Statement suggest that one in 1,000 of those who participated in the demonstrations around the country have been arrested. The judicial process must now take its course. The figures indicate that it was a very small minority who besmirched significant peaceful demonstrations that might well have been larger but for the pandemic and social distancing. The Government's own figures indicate that 999 out of every 1,000 who protested did so peacefully.

We can of course simply express criticism of those who demonstrated peacefully for breaching coronavirus regulations and guidelines, but there have been others recently in positions of real power and influence who have hardly set a shining example in this regard. We might do better to look at, and understand, what motivated the 999 out of every 1,000 peaceful, not violent, protestors to turn out on to the streets of many of our cities.

The brutal killing of George Floyd in America has been widely condemned and has also aroused strong passions around the world, including in our country, with protest demonstrations by, and in support of, black people in particular and ethnic minorities in general. The words "black lives matter" have struck a deep chord, reflecting strong feelings and indeed anger—anger about persistent and continuing injustice, discrimination, racism and being treated and regarded as second-class citizens, and with it a call for meaningful action to unite communities and confront injustices in our society.

Public Health England recently published its report on the disparities in the risk and outcomes of Covid 19, showing that black males are four times more likely than expected to die with the disease. Coronavirus has shone a light on inequalities that have long existed. Can the Minister say whether Public Health England made any recommendations in the light of the findings in its report? None appears to have been made public.

The Windrush review by Wendy Williams had damning findings and its recommendations need to be acted upon. When do the Government intend to come back to Parliament to tell us what action they will take in the light of the Williams recommendations?

A report nearly three years ago by the now shadow Justice Secretary, David Lammy, showed that black people make up around 3% of the general population but account for 12% of adult prisoners and more than 20% of children in custody. Those are disturbing statistics, and the Government should implement the report's recommendations. In the last few days in particular, we have also heard and read testimonies from many people on how racism continues to have an impact on daily lives in our country.

The Home Secretary said in her Statement:

"I fully appreciate the strength of feeling over his senseless killing, the inequality that black people can sadly still face, and the deep-seated desire for change. I know that it is that sense of injustice that has driven people to take to the UK streets to protest."—[*Official Report*, Commons, 8/6/20; col. 40.]

We need to address that sense of injustice and deep-seated desire for change as a matter of urgency. Will the Minister now commit the Government to coming back to Parliament on a regular basis to report orally on the actions that have been taken, and are being taken, since each previous update to address that sense of injustice and deep-seated desire for change to which the Home Secretary herself referred? Now is the time to avoid divisive words and instead to listen, to learn and, above all, to act.

Lord Paddick (LD) [V]: My Lords, this Statement is entitled Public Order and I declare an interest as being one of a small cadre of senior officers trained to lead the policing of disorder. Following my work as the police commander in Brixton—the so-called capital of black Britain—I accepted an invitation to address a University of Minnesota conference on the disproportionate incarceration of African Americans in the city where George Floyd tragically lost his life.

As the police themselves have said, and as the noble Lord, Lord Rosser, has just mentioned, the overwhelming majority of the Black Lives Matter protesters in the UK at the weekend were peaceful. There is justified anger about racism in the UK, in all its forms and in all parts of society, but there is a difference between explaining behaviour and justifying it. The appalling attacks on police officers and the damage to property cannot be justified, even though I understand that people are angry, that they feel they are not being heard, and that they believe demonstrating is the only way they can bring about change.

Policing by consent in the UK means policing with the support and co-operation of the public but when people refuse to comply with the reasonable and lawful requests of the police, officers have to switch from persuasion to the use of force, often instantly. That is difficult for individual officers and police leaders when

[LORD PADDICK]
peaceful protests turn violent. Often officers in ordinary uniform have to withdraw under a hail of missiles before officers in riot gear can replace them. It is not the police retreating or losing control of the streets; it is a necessary tactic but one that can lead to police casualties, and I send my best wishes to all former colleagues who have been affected by the violence they experienced this weekend, which, as I have said, was unacceptable.

In recent times police have deployed evidence gatherers—observers speaking into recording devices, and camera operators who record offences as they are committed—so that officers do not have to risk escalating the violence and depleting their numbers by arresting people at the peak of serious disorder. Instead, they investigate, identify and arrest those responsible after the event. It is a difficult operational decision whether to intervene at the time to prevent copycat offences, or to leave it until later, to prevent an escalation in violence and the risk of depleted police numbers being overwhelmed. But what it is not is the police allowing criminals to get away with it.

Of course, the coronavirus regulations prohibit gatherings of more than six people but this needs to be balanced against the human rights to free speech and the right of assembly, also established in statute. Unfortunately, following the Dominic Cummings fiasco, the Government are on very thin ice when people are apparently allowed to use their own judgment when it comes to obeying health regulations. Even Border Force officers are being told to "encourage" the completion of passenger location forms, and not to enforce the law on the quarantine of UK arrivals.

I have three questions that I would like the Minister to answer. First, in the light of these demonstrations, what health advice have the Government given to the police, and what PPE have the Government provided to ensure that officers are protected from coronavirus in such circumstances? If the Minister is going to say that the protests are illegal, that is clearly not stopping them taking place, and officers still need protection. Secondly, what action are the Government taking to acknowledge the justified concerns of those protesting about racism in the UK, to reassure them that they are being heard and that further demonstrations are therefore unnecessary? If the Minister is tempted to say, as one of her colleagues has suggested, that there is no racism in the UK, I remind her of the Wendy Williams report, the David Lammy review, and the disproportionate numbers of BAME people dying from coronavirus that the noble Lord, Lord Rosser, mentioned. Thirdly and finally, what pressure are the Government putting on the police service to either address the disproportionality or explain why you are 10 times more likely to be stopped and searched in the UK if you are black than if you are white, and two-and-a-half times more likely to die in police custody?

If the Minister is tempted to mention knife crime, I refer her to Home Office research that shows a 10% increase in stop and search results in only a 0.01% drop in non-domestic violent crime. If the Minister, for whom I have the greatest respect, is tempted to say that it is an operational matter for the police, why is the Home Secretary publicly criticising operational policing decisions around the toppling of the statue of a slave trader in Bristol? If the Home Secretary can put pressure on the police to make arrests, she can put pressure on the police to address disproportionality.

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): I thank both noble Lords for the points that they have raised. I join them in wishing the officers who have been injured a full recovery. I understand that the figure to date is 62 and that 137 arrests have been made. I also join the noble Lords in condemning the violence. I can understand and totally concur that black lives matter but violence undermined what those people were trying to very peacefully protest about, as the noble Lords said. With regard to the destruction of the statue of Edward Colston, both noble Lords have condemned the violence, and neither are sorry to see the back of a slave trader. I can understand those points but there is a broader point about doing things in a democratic and peaceful way. Actually, that statue could have been removed years ago, had it been done in a democratic way.

It is sad that the story is no longer about Black Lives Matter but has been overtaken by violence. Behind this, of course, is the brutal killing of George Floyd; so awful was that video that I could barely watch it. Let us remember him rather than some of the violence, but we cannot escape from the need now to tackle it.

We also need to look at the public health dangers that were caused by people being far too close to one another. The noble Lord, Lord Rosser, talked about the disparities involved, with black men being more susceptible to coronavirus. No one is quite sure why that is, but it certainly seems to be the case. It is all the more worrying that so many people were gathered so closely together on Sunday.

The noble Lord asked me about the Wendy Williams report response and when Parliament will hear it. Wendy Williams was very clear, as I recall from when I read out the Statement about her report, that she wanted the Home Secretary not just to have a knee-jerk reaction to it but to take some time to reflect on it, and that is what she will do. The response will be with Parliament within the allotted time limit.

The noble Lord talked about racism continuing to impact lives and about the Home Secretary understanding the burning injustices that it inflicts upon society. She talked yesterday about a whole-government response to inequality and injustice. This does not just come down to one department; actually we are all responsible for it, and so indeed is society.

The noble Lord, Lord Paddick, talked about the overwhelming majority of people protesting peacefully, and of course he was right. He talked about how difficult it is for the police when a peaceful protest suddenly turns violent. Of course it is; they suddenly have to adjust to a different set of circumstances, often with absolutely no notice. He talked about body-worn video helping the police, and that is true: rather than making arrests at the time, they can go back to study the video. That helps from the point of view both of the police and indeed of anyone who is being accused.

The noble Lord talked about the health advice to those front-line police. The public health advice to front-line police is absolutely the same as that for any member of the public. We know that the police are well equipped with PPE, and they should deploy it as appropriate.

The noble Lord talked about acknowledging concerns about racism in this country. I acknowledge it—I came here in the 1970s as an immigrant—and I know the Home Secretary acknowledges it as well. We have made improvements in BAME recruitment to the police, but we certainly have not got there, and Sunday was almost an explosion of that frustration.

On the noble Lord's point about black people being 10 times more likely to be stopped and searched, the most recent publication of stop and search figures for the year ending March 2019 showed that there were a total of 383,629 searches, resulting in 58,876 arrests under Section 1 of PACE and Section 60 of CJPOA. That is down from a peak of approximately 1.2 million stop and searches in 2011. Of course, the thing about stop and search is that it is designed to help those vulnerable people who might be at risk of attack themselves. However, for both Section 1 and Section 60 there is a larger proportion of those stopped and searched who self-identify as black or BAME.

The Deputy Speaker (Lord Alderdice) (LD): We now come to the 20 minutes allocated for Back-Bench questions. I ask that questions and answers be brief, so that I can call the maximum number of speakers.

1.16 pm

Baroness Warsi (Con) [V]: My Lords, I echo the sentiments of my noble friend and the noble Lords, Lord Rosser and Lord Paddick. As someone who has both family and friends in the police, I know the amazing work that our police do every day in this country. However, does my noble friend accept that what we saw in the small incidents of public disorder were simply the symptoms of racism, not the disease, which results in the inequalities that the protests are about? We have had the Lammy review, the Williams report and indeed the race disparity audit, which reported back in 2017. Could my noble friend give words of hope and practical examples of what the Government are doing to deal with the disease of racism that feeds the inequalities which resulted in the public disorder?

Baroness Williams of Trafford: I agree with my noble friend that what we saw on Sunday was a symptom of the frustration that people feel about racism, both overt and covert, within our country. We need more diversity in the workplace, in Parliament and in all sorts of areas of life. My noble friend will have heard the Prime Minister addressing the public yesterday about this and talking about how across government we need to drive this out. This is not about one particular department of government or one particular individual; it is about a public collective in terms of driving this sort of poison out of our society.

Lord Woolf (CB) [V]: I have listened to what has been said in the House so far and read the debate that took place after the Statement that was made yesterday in the Commons. I acknowledge the balanced approach that Members of Parliament are taking to the very real problem that has arisen here. Does the Minister agree that what has been said about what happened indicates problems in relation to the rule of law, which is so important to uphold in order to induce a sense of fairness? Is it not also clear regarding some of the problems that exist, not only the matters that we are considering today but also Windrush, that it is time that more resources were made available to the criminal justice system as a whole and that a long-term report, perhaps by a royal commission, needs to be done into the criminal justice system generally so as to improve the sense of fairness?

Baroness Williams of Trafford: I think the noble and learned Lord is right about the balanced approach and the importance of the rule of law. I respect those who very peacefully protested on Sunday, but of course that was completely undermined by those who just flouted the rule of law and those who put other people at risk of the virus when we are going through quite a critical stage in in trying to wipe it out. The noble and learned Lord talks about more resources for the criminal justice system. From a Home Office point of view, our ambition to recruit an extra 20,000 police officers over the next few years is well on track to be delivered. I hope that, as he says, the whole fairness of the criminal justice system will lead to a public feeling of a more fair and equal society.

Lord Foulkes of Cumnock (Lab Co-op) [V]: My Lords, is the Minister aware that one of the causes of the protest and the pulling-down of the Colston statue in Bristol was the failure to act on previous lawful representations about that statue and the frustration caused? Why is the Prime Minister now refusing to meet with Sadiq Khan, the Mayor of London? Why are the Government refusing to deal with legitimate BAME concerns, such as Windrush? Will the Government ever learn to start listening to peaceful representations, particularly from elected Members?

Baroness Williams of Trafford: My Lords, the Colston statue is in Bristol, and therefore is a matter for the elected representatives of Bristol to deal with democratically. If people are not happy with the democratic process in Bristol, they can do something about it at the ballot box. If people want to make representations to Sadiq Khan about the various statues they may object to across London, it is for them to do so.

Lord Dholakia (LD) [V]: My Lords, it is 72 years since the arrival of the "Empire Windrush" and three factors have remained constant. Racism and racial discrimination are a reality in the lives of the black and ethnic minority community. Geographically and economically, they find themselves in the same place that was allocated to most of them when they arrived here. Institutions and organisations seldom take into account the diversity of our nation. Mrs May's equality audit has taken us nowhere forward. Islamophobia prevails in our political structure. Violence will never be an answer; we need a political leadership that values the contribution of our black and Asian

[LORD DHOLAKIA]
community. Where will this come from? Is it not time that the Prime Minister and the Home Secretary spoke about the future of our multiracial Britain?

Baroness Williams of Trafford: My Lords, I do not disagree with the noble Lord. Parliamentary representation and leadership within government have a long way to go, but we have certainly come a long way in the last few years, in terms of the leadership of our country. The culture is changing slowly but surely, and I am very pleased that our Home Secretary is from the BME community.

Lord Pickles (Con) [V]: My Lords, I fully accept that there is much to do to make British society more equal and just, and I encourage the Government in their endeavours. But is my noble friend surprised that some of those who have been most critical of every easing of the lockdown have been prominent in supporting mass gatherings, risking a second wave of Covid-19? There is no getting away from the fact that these gatherings play fast and loose with the life chances of the most vulnerable.

Baroness Williams of Trafford: My noble friend is absolutely right: it is perverse that those most critical of the easing of the lockdown should then put themselves in a position in which not only they, but those from BME communities, are at risk.

Viscount Waverley (CB) [V]: The Prime Minister and Home Secretary must follow through. Having recognised that issues of endemic racism exist, they should be firmly addressed. Why not establish a progress barometer or national ratings scheme for public bodies, eventually extending to the private sector? Moving on, does the Minister concur that the UK leads the world in its humane manner of policing, and exports its training internationally? Could we not offer such to one of our closest allies, or have we done so already?

Baroness Williams of Trafford: To answer the second question from the noble Viscount first, it always strikes me, when I look at the police system we have in this country and at some of the methods that police have across the world, that we are lucky to have the police forces that we do. They run into danger, rather than away from it. They keep us safe and police by consent. We are incredibly lucky as a nation to have them. By a rating system, public and private, I assume he means a system of diversity. We already have that in place across government and we talk about it regularly, particularly when we celebrate International Women's Day, when we also talk about other types of equality. The Government cannot criticise if they are not doing their job themselves, and there is improvement in diversity across all areas of government.

Baroness Kennedy of Cradley (Lab) [V]: My Lords, what I find most disappointing about the Statement is that it focuses on the actions of the minority, whose violent behaviour we all denounce, and not on the reasons why thousands of peaceful protesters, supported by millions from their homes, were on the streets in the first place. Would the noble Baroness correct that missed opportunity today and set out what action the Government are taking to deal with the institutional racism that exists within our criminal justice system, as regards stop and search, arrests, charges and convictions?

Baroness Williams of Trafford: My Lords, I agree with the noble Baroness. It is a shame that we are talking about the public order offences, which have completely overshadowed what people were trying to talk about in the first place, which was peaceful protest against the awful events that happened in America. The minority have made that impossible. The noble Baroness is right to talk about the wider point of stop and search. The Government will be working across the piece to address some of those injustices.

Lord Mackay of Clashfern (Con) [V]: My Lords, will my noble friend commend the example of the organiser of the justified and peaceful protests in Glasgow Green, in his efforts to protect innocent protesters from the dangers of the virus? He tried his best to ensure that they were at proper distances apart.

Secondly, it is not for the Government alone to deal with this; it is a question for all the organisations in our country to deal with. The organisation that perhaps I know most closely in this country is the Bar of England and Wales, and I am glad to know that, in recent years, the number of those belonging to ethnic minority and black communities is increasing. Last time I saw the statistic, it suggested that the proportion of such in the Bar of England and Wales is about the same as in the general population.

Baroness Williams of Trafford: My noble friend brings me two pieces of good news this morning. I am very pleased to note those statistics from the Bar of England and Wales. We do see improvements across the piece—in the police, in Parliament and in government departments—but there is a way to go. I am delighted that the organiser of the peaceful protest in Glasgow Green made sure not just that social distancing took place but that everything went off peacefully. That individual is to be commended.

Lord McNally (LD) [V]: My Lords, we are not the first society that has had to face uncomfortable truths about its past history or present injustices. Some have addressed them by inquiries of peace and reconciliation, which have allowed those societies to face up to those problems. Could the Minister consider developing the idea put forward by the noble and learned Lord, Lord Woolf, of a royal commission that could look at these matters, with a duty of peace and reconciliation? I suggest there is a chairman readily available with the retirement of the most reverend Primate the Archbishop of York, John Sentamu. He would give confidence to both sides, while such an inquiry took place.

Baroness Williams of Trafford: My Lords, one of the points made in the Commons yesterday was that deeds and actions will speak to issues like this the most loudly. A royal commission is one idea, but I

think that across every stratum of society—from our democracy in local and national government to the institutions that serve government to the private and public sectors in our country—it is the collective effort that will make the real difference.

Baroness Jones of Moulsecoomb (GP) [V]: I have to confess that I am deeply dissatisfied with some of the answers we are getting today. It is no surprise that there is systemic racism in the police; it has been going on for decades and decades—the report into the Stephen Lawrence case made recommendations back in 1999. I am afraid that the noble Baroness did not answer the question put to her by the noble Lord, Lord Foulkes, because the people of Bristol have in fact tried to get rid of that statue many times, and democracy failed in that case. Will the noble Baroness please answer the question put by the noble Baroness, Lady Kennedy of Cradley: what are the Government going to do? The Minister has said that the Government are going to work across the piece, but what does that mean?

Baroness Williams of Trafford: My Lords, I should say to the noble Baroness, who is also my noble friend, that if democracy failed in Bristol, democracy is failing in Bristol and it is up to the people of Bristol to vote in a more effective democracy. I do not think that there is one single answer to some of the systemic issues in what we have seen. We have to work across government and all the strata of society in order to make that cultural change.

Lord Caine (Con) [V]: My Lords, while I completely understand, not least because of my own experience in Northern Ireland, that the police often have to make very difficult judgments in public order situations, does my noble friend agree that it is none the less vital to public confidence that the law is still enforced? Is not one of the lessons we learned from what we saw in the summer of 2011 that this is more effective when it is done quickly?

Baroness Williams of Trafford: I agree absolutely with my noble friend. It is not only best that it is done quickly, but it is what the public expects.

Lord Mackenzie of Framwellgate (Non-Afl) [V]: My Lords, when watching the violent destruction of the statue in Bristol on Sunday, I was struck by the absence of any police presence. Sir Robert Peel, in founding the police in 1829, stated that the basic mission for which the police exists is to prevent crime and disorder. Does the noble Baroness believe that the Avon and Somerset police force fulfilled that mission?

Baroness Williams of Trafford: My Lords, the way in which the police organise themselves for various situations is of course a matter for the police. Reflecting on the words of the noble Lord, Lord Paddick, I think that it is quite often the case that, early on, things seem to be quite peaceful and then suddenly they get out of order. However, I am sure that reflections on the events on Sunday will lead to some lessons learned.

Lord Cormack (Con) [V]: My Lords, no words are too strong to condemn those who hijacked the peaceful demonstrations, but I am very concerned about the size of the peaceful demonstrations and the fact that most of them did not find themselves conducted as they were in Glasgow. Will my noble friend please discuss with the Home Secretary the possibility of convening a consultation with all the responsible leaders who are concerned about these issues? Can they ensure that there are no more mass demonstrations which could endanger the life of the whole community, in particular those from black and ethnic minority communities? Could this be done as a matter of urgency and then clear guidelines issued?

Baroness Williams of Trafford: I must confess that I found some parts of my noble friend's question difficult to hear. I think that what he was saying—I hope that he will nod or shake his head accordingly—is that there are lessons to be learned from Sunday in terms of not holding mass protests where the lives of black and ethnic minority individuals in particular are put in danger because of the lack of social distancing. My right honourable friend the Home Secretary made it absolutely clear yesterday that the regulations are there to be upheld and that that should be the lesson from now on in.

1.36 pm

Sitting suspended.

Arrangement of Business

Announcement

1.46 pm

The Deputy Speaker (Lord Alderdice) (LD): My Lords, we now come to the Second Reading of the Corporate Insolvency and Governance Bill. A limited number of Members are here in the Chamber, respecting social distancing, and if the capacity of the Chamber is exceeded, I will immediately adjourn the House. Other Members will participate remotely, but all Members will be treated equally, wherever they are. For Members participating remotely, microphones will unmute shortly before they are to speak; please accept any on-screen prompt to unmute. Microphones will be muted again after each speech. I ask noble Lords to be patient if there are any short delays as we switch between physical and remote participants. I remind the House that our normal courtesies in debate still very much apply in this new hybrid way of working.

To help manage proceedings, there will be an adjournment after the speech of the noble Baroness, Lady Falkner of Margravine, until a convenient point after 4.45 pm. After the adjournment, the debate will resume with the noble Baroness, Lady Anelay of St Johns.

Corporate Insolvency and Governance Bill

Second Reading

1.47 pm

Moved by ***Lord Callanan***

That the Bill be now read a second time.

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Callanan) (Con): My Lords, we have faced, and continue to face, a global health emergency on an unprecedented scale. The Covid-19 pandemic has brought significant challenges to our country and our economy. The imposition of strict social distancing measures has meant that many businesses are facing significant short-term difficulties and, some, sadly, the threat of insolvency.

Providing support to UK businesses is at the heart of the Government's economic response to Covid-19. The fiscal package introduced by the Government has provided billions to businesses through support schemes such as loans, grants and the job retention scheme. The Bill will provide additional support to businesses by giving them the flexibility and breathing space that they need to bounce back from the Covid-19 pandemic. To achieve that, the Bill will do the following.

First, it will introduce a package of permanent reforms to insolvency law to give businesses the space and tools required to maximise their chances of survival. Secondly, it will temporarily suspend parts of insolvency law to protect companies from aggressive creditor action and give company directors greater confidence to continue to trade through the pandemic. Thirdly, it will extend greater flexibilities to businesses, allowing them to hold their general meetings in a way which is consistent with social distancing measures, and providing more time for them to file the information they need to with Companies House. This package of measures will help give businesses the support they need to keep trading, preserving jobs and value, and laying the foundations for the UK's economic recovery.

The first set of measures is a corporate restructuring package that will make permanent changes to the UK's insolvency framework. The Government previously consulted extensively on these changes to the corporate insolvency regime and we announced plans in August 2018 to introduce new insolvency rescue and restructuring procedures. The Bill will implement those reforms. This package of reforms will have an immediate effect in helping companies get through the Covid-19 emergency by providing them with the breathing space that they require to help them avoid insolvency as they seek a rescue. The package contains three elements.

The first is a moratorium, which will give financially distressed companies breathing space from their creditors while they seek a rescue. It will last initially for 20 business days, and can be extended. During this time, legal action is restricted against a company without leave of the court. There are some time-limited relaxations of the eligibility criteria for the moratorium to make it easier for companies to enter a moratorium during the Covid-19 crisis.

The second element of the corporate restructuring package is the introduction of a new restructuring plan. This will allow companies to restructure complex debt arrangements and bind creditors to the plan as long as certain thresholds are met. As the House would expect with a proposal that has a binding effect on creditors, significant safeguards are in place for them. For example, the court must be satisfied that dissenting creditors will not be made worse off than they would have been under the next most likely outcome.

The third and final element of the corporate restructuring package is the prohibition of termination clauses. Such termination clauses are often found in supply contracts and are triggered on the commencement of an insolvency or rescue procedure. Their prohibition will mean that contracted suppliers cannot terminate contracts, or demand additional payments, just because the company has entered an insolvency procedure or moratorium. However, there are again safeguards in place for suppliers to protect them from financial hardship as a result of their being required to continue to supply. In addition, due to the impact of Covid-19 on small companies, small suppliers will be temporarily exempt from this requirement.

The Bill also introduces some time-limited measures to provide additional support for businesses during the crisis. The first of these is the temporary suspension of wrongful trading liability. Wrongful trading liability is a deterrent against company directors continuing to trade when their company is insolvent. This temporary suspension will encourage directors of companies that would be viable but for the impact of Covid-19 to continue trading without the threat of personal liability. Let me reassure noble Lords that, while we believe this suspension to be necessary at this time, directors will still be bound by the rest of their legal duties under wider company law. In addition, measures under insolvency law to penalise directors who abuse their position will of course remain in place.

The second temporary measure will help struggling businesses by removing the threat of statutory demands and winding-up petitions issued against companies during the emergency. The Government have already temporarily suspended the right of commercial landlords to forfeit the tenancies of retail businesses in order to protect tenants unable to trade because of Covid-19. The vast majority of landlords and tenants have been working together to reach agreements on their debt obligations. Unfortunately, however, there have been cases of landlords using aggressive debt recovery tactics, including the use of statutory demands and threats of winding-up petitions, to put undue pressure on tenants. This provision will give businesses the opportunity to reach realistic and fair agreements with all creditors.

All the temporary insolvency measures in this Bill will expire one month after Royal Assent. However, the Bill contains the required powers to extend the temporary provisions should it prove necessary to do so due to the ongoing crisis. Furthermore, the Bill contains the temporary power to make other amendments to insolvency or governance legislation. This will facilitate a rapid response to overcome the emerging challenges to businesses that result from the Covid-19 pandemic. As ever, the House will of course have the opportunity to scrutinise the use of these powers if they are needed.

The final set of temporary measures deals with meetings and company filings. The Bill makes it easier for companies, mutual societies and charitable incorporated organisations to comply with legal requirements on holding AGMs and other meetings while keeping their shareholders and members safe and respecting social distancing rules—as we are doing in this House. This flexibility applies retrospectively from 26 March, giving businesses the certainty that

they will not be penalised for trying to do the right thing during the pandemic. The measures will also enable AGMs to be postponed until 30 September this year where necessary.

On filing requirements, we are giving hard-pressed companies more time to submit annual accounts, confirmation statements and various notices of relevant events, such as the appointment of a director, to Companies House. Lenders will also have more time to register a charge against a company's assets. This follows the announcement made on 25 March that Companies House had extended the period for filing accounts. Over 100,000 companies have successfully applied for the three-month extension that is available. This measure will further ease the burdens on businesses at this difficult time while ensuring ultimately that information is still filed with Companies House within a reasonable time.

Overall, the package of measures in this Bill has been widely welcomed by businesses at this critical time. Following its passage through the House of Commons, the chair of R3 in Scotland, the trade association for the UK's insolvency and restructuring professionals, stated that:

"The proposed legislation will give both solvent and insolvent businesses crucial breathing space and increased legislative flexibility to review options without being pushed prematurely into an insolvency procedure. This new approach could make a significant contribution to repairing the economic devastation caused by the current pandemic."

The Government are committed to supporting UK businesses throughout the emergency. These measures are being implemented to alleviate some of the current challenges that businesses are facing, maximising their chances of survival and allowing them to continue trading and to help the UK economy bounce back from this crisis. I beg to move.

1.56 pm

Lord Stevenson of Balmacara (Lab) [V]: My Lords, I thank the Minister, his colleagues in the department and the Bill team for all the engagement that we have had on the Bill in recent weeks. I am also grateful that a number of virtual meetings have been set up for Members of your Lordships' House. Several helpful letters have also been received. We are therefore well briefed about this sensible and proportionate Bill and cognisant of the reasons why it is being brought forward on a fast track. I can confirm that, while we will give the Bill good scrutiny, our objective as Her Majesty's loyal Opposition is to be constructive and to ensure that our businesses get the support they need now and in the long term.

A large number of Members of your Lordships' House have signed up to speak in today's debate, and we look forward to their comments and questions to the Minister. We will put down a range of amendments tomorrow based on today's debates as well as the submissions that we have received from organisations and bodies concerned with this issue. I also thank the Library for its very helpful note on the Bill.

The Minister said that although some of the measures in the Bill had been consulted on a few years ago, it is at heart a part of the Government's package of measures to address the supply shock caused by Covid-19. As the impact assessment for the Bill states, the case is certainly strong:

"Early models of the impact of Covid-19 have suggested that UK GDP growth in 2020 … could range between -3% and -13%, with scenarios for corporate insolvencies ranging from 30,000 to 160,000."

However, does this not raise the question of what is going to happen to the other corporate insolvency measures which were consulted on in 2018-19? What about the wider policy response arising from various significant corporate failures in recent years such as Carillion, which is now overdue?

We are now entering the end of the lockdown phase, and the challenges ahead are becoming clearer. There will be a huge amount to do to ensure that the recovery is as short and strong as possible so that we minimise the impact on unemployment levels and the wider economy. I agree that it would have been wrong to hold back the measures in this Bill because other proposals were not yet ready to be included, but the last thing we want is for these issues to be dealt with in silos. Provisions in the Finance Bill 2020 ensuring that HMRC is a secured creditor in insolvency proceedings are surely a classic example of this, potentially running a coach and horses through this Bill. Many issues need a cross-government approach, which is appropriate. Our insolvency framework touches almost every part of the economy and helps to create the confidence and public trust which underpin trading, lending and investment.

I turn to the Bill. We support both the permanent changes being made to insolvency law and the temporary changes being made to insolvency law and corporate governance. Others speaking today will undoubtedly make particular points about the Bill, and we look forward to the Minister's responses. To get us started, I will mention a few areas where we will put down probing amendments.

The position of employees seems unsatisfactory, both in terms of their lack of formal involvement in the processes and in relation to outstanding pay and other claims during the moratorium. The classification of pension scheme deficits, particularly for defined benefit schemes, as unsecured creditors seems unfair and perhaps should be reviewed. Many of the companies likely to take advantage of the new measures will be SMEs, and many SMEs will be unsecured creditors in insolvencies of other companies. The current insolvency regime was introduced in 2003 and is basically unchanged since then. It gives preferential protection to secured creditors and, as noted earlier, HMRC has legislated to protect its position. Is there a case for reconsidering the treatment of unsecured creditors?

On the length of the moratorium, Chapter 3 does not contain a maximum period and there appears no overall limit on the number of extensions available. Is that right? The new position of monitor is welcome but, apart from the requirement that he or she must be an insolvency practitioner, there is no other requirement set out in statute and the appointment is left wholly to the discretion of directors, with no role for creditors. We surely need much more detail here.

[Lord Stevenson of Balmacara]

As has been said, the Bill helps struggling businesses by temporarily removing the threat of winding-up proceedings where unpaid debt is due to Covid-19; and it introduces temporary measures to void statutory demands against companies during the emergency. We support those. It is important that the measures suspending liability for wrongful trading do not relieve directors of their duty of care to act responsibly and in good faith, as specified in Section 172 of the Companies Act 2006. Should these measures not be put into the Bill?

Given the time that has elapsed since the lockdown, and the continuing reduction of normal economic activity, we would not object if the Government wished to extend the initial period of the effect of the Bill to 30 September 2020, even though, as the Minister said, they have power to extend it using secondary legislation. Some of the issues I have mentioned could be dealt with by inviting the Minister to clarify on the record what the Government mean by the current drafting. In other cases, we would hope to convince Ministers that substantive action may be required in subsequent legislation, and we will be pressing them to take an early opportunity to do so.

I mentioned earlier that the measures in this Bill needed to be considered in the wider context of the changes that will be needed to ensure that our economy recovers quickly and sustainably after Covid-19. One of the most shocking recent corporate collapses was that of Carillion, because it seemed to arrive without warning, despite active monitoring by the Government, and it affected tens of thousands of workers and subcontractors. In recent years, many familiar high-street retailers have closed, leading to devastating implications for workers, their families and wider communities. These collapses raise a number of questions. Why are our systems of auditing and reporting not able to pick up possible corporate failures earlier? Who is to blame? Do we focus enough on restructuring and rescuing companies which get into trouble, and do we have the skills and experience in the professional services needed to do that?

In a recent report, the TUC argued persuasively that the insolvency law is currently too heavily weighted in favour of creditors, often the banks. Other countries, notably Germany, take a very different approach. Staff in companies which crash and burn face substantial financial losses when their firm goes to the wall. Gaps in employment law also mean that those in insecure work, including agency workers, zero-hours contract workers and the self-employed—the so-called gig economy—miss out on even basic protections. Despite promises to enact the recommendations of the Taylor review, we still have the situation in this country where all employees are workers, but not all workers are employees. Why the delay?

One of the reasons that Carillion failed was that it carried huge levels of debt, a situation that is, unfortunately, likely to recur more widely in our economy as we recover from Covid, creating inherent risks to which boards, investors and auditors need to be able to respond. Are we confident that we have the systems in place?

Over the next few years, the Government must bring forward an integrated approach to the issues raised by the recent series of corporate failures, including: more corporate transparency and reform to the role and function of Companies House; training for directors, owners and senior management of public companies; legislation for CMA reforms for the appointment and oversight of auditors, and for the Brydon recommendations on compliance and practice; better insolvency practitioner regulation; the future of "pre-pack" administrations; making the Prompt Payment Code statutory, not voluntary, and giving the Small Business Commissioner real powers to ensure that the code is enforced; and ensuring that consumers have a central role in relation to policy on financial services and decisions on mergers and acquisitions.

Finally, the Bill is aimed at helping businesses, but why are these measures not also available to individuals, millions of whom will be facing unmanageable debt? A report in the papers today suggests that British households are expected to rack up debts worth £6 billion because of the coronavirus crisis. That is on top of figures which show that, at the end of January 2020, UK household debt was around £1,680 billion. Some 12.8 million UK households have no savings or savings of less than £1,500. The Government have committed to introduce a breathing space scheme for personal debt, and to roll out the successful statutory debt management plans which operate in Scotland. We urgently need these to be introduced now.

2.05 pm

Baroness Bowles of Berkhamsted (LD) [V]: My Lords, I draw attention to my financial interests, as in the register. Although we broadly support the Bill, it is a little frustrating. It does too much by permitting things in a fast-tracked temporary measures Bill, and too little because it has left out other important measures similarly well consulted on. The Minister may conclude that that balance is like Baby Bear's porridge and just about right. Nevertheless, there are some lumps in the porridge. Expediency has meant that it is the business-favouring parts of the consultations that are being fast-tracked and the more social-facing, small business and employee-facing measures that are left out. I therefore ask the Minister for reassurance that the Bill is not seen as removing pressure from legislating other important reforms on corporate governance and reporting, ESG, insolvency practitioners, audit and replacement of the Financial Reporting Council. I certainly do not see it as a justification for holding off.

The moratorium provision was expected, but there may be traps in the way it works, especially in the event of a following insolvency. There are changes in the insolvency distribution waterfall, with unpaid moratorium debts, and pre-moratorium debts without a payment holiday, being given a new super-priority. Both the treatment of what becomes super-priority and what is "normal supply" disadvantage smaller suppliers. All their pre-moratorium debt is in the subordinated category and normal supply favours stronger creditors' amounts of super-priority, as they will have contracted shorter payment terms. Will events be monitored, and rankings readjusted if the super-priority does result in outcomes with less in the pot for SMEs, unsecured creditors and

pension fund deficits? Unfortunately, it also looks as though the slaying hand will be held by HMRC, with its new claims for extra super-priority, and by banks, as they are outside the ipso facto provisions. It may be that security is not exercised in moratorium, but where are the provisions that prevent banks charging special fees and hiking interest so they can profit in moratorium, or making repayment acceleration demands to secure larger sums with super-priority? Such actions will not help rescue companies, are unfair and should be restrained. That is not to say that the moratorium concept is unwelcome but, because we do not have the time now to weigh up all the checks and balances, it would be sensible to hold its operation under review, to see how it worked and for revisions in the light of unintended consequences to be brought forward.

The temporary suspension of winding-up petitions also has lumps. In a sense, it robs Peter to pay Paul and whether it is the potential petitioner or the company that is smaller, more at risk or more aggressive, is not always one way. I therefore recognise the compromise in trying to keep the period short. However, under Schedule 10, the courts could impose retrospective restoration costs on those required to withdraw petitions made under the current law. Unlimited, might that be a retrospective step too far?

I am conscious that fast-tracked emergency legislation is not appropriate for complex changes and additions, but a few simple things within the scope of the Bill could be achieved. My noble friends will say more.

I regret that there are not more provisions to assist with personal bankruptcy. Australia has raised both the payment time and the financial threshold for initiation of proceedings.

Baroness Bloomfield of Hinton Waldrist (Con): I remind the noble Baroness of the time limit.

Baroness Bowles of Berkhamsted [V]: What is happening in the UK? Additionally, I regret that the Bill does not include simple Companies House provisions on identity verification, enabling it to play a role in preventing rogue or criminal elements abusing the current crisis to commit fraud. Again, there has been consultation already, but how is that being followed up?

Baroness Bloomfield of Hinton Waldrist: I ask the noble Baroness to bring her comments to a close.

Baroness Bowles of Berkhamsted [V]: I intend to revert to the various matters I have mentioned with amendments.

2.10 pm

Baroness Neville-Rolfe (Con) [V]: My Lords, I support my noble friend the Minister on the measures being taken here and elsewhere on business support.

Timeliness is everything in a crisis. I commend the Minister on the speed of the measures that we are debating, although I remain frustrated at the tin-eared refusal elsewhere in government to reduce social distancing from two metres to one metre and the extraordinary introduction of quarantine at our borders, which was needed in February or March but is an act of self-harm today. The problem is that both are decimating businesses. So, I particularly support the emergency arrangements in the Bill. They allow closed annual general meetings, delay filing deadlines for Companies House, and temporarily remove personal liability for wrongful trading and the threat of winding-up petitions. I speak as a director with an interest—I draw your Lordships' attention to my entry in the register—a chartered secretary and a fellow of the Global Governance Institute.

However, company law has been built up over generations. Rapid changes can alter the balance of our much-admired corporate regulatory framework. The pension funds and insurance companies on which we depend need the opportunity to probe accounts at Companies House, especially in a fast-moving market with the sale of a struggling company sometimes being the right solution. Shareholders need to be able to hold companies to account at annual general meetings. The Bill rightly sunsets these provisions but there are powers of extension. I ask the Minister to promise that he will be sparing in their use. If not, their understandable use retrospectively to help firms from the start of the cliff edge in sales could be questioned.

The main provisions in the Bill bring forward long-planned changes in insolvency law. It is a little cheeky to use what is essentially an emergency measure for these reforms. However, I confess to doing the same many years ago when I led the work on the Food Safety Act. This reforming legislation had been in the famous Whitehall drawer for nearly 10 years when Mrs Edwina Currie precipitated a crisis by wrongly asserting that most eggs had salmonella. Our Bill then secured an immediate slot.

I note that the insolvency provisions have secured good support, having been honed in industry exchanges. They have become urgent because many companies may now be heading for insolvency as a result of our severe Covid controls. The changes give them breathing space now and if they suffer in future, but it is worth reading the impact assessment prepared by BEIS, which it kindly took me through. The net benefit is an impressive £1.92 billion when discounted over 10 years, but that netting-off hides costs of £2.9 billion, which someone must find.

We want to make absolutely sure that the Bill is fit for purpose. I understand that in one of the most difficult areas, discouraging the extraction of ransom payments is precedented in utilities and IT. I ask the Minister for an appraisal and costing of that experience before we reach Committee.

Another issue was raised with me by the British Property Federation. It wants steps taken to reinstate the provision in Section 129 of the small business Act 2015 on pre-packaged administration, which expired unexpectedly, I believe as a result of the Covid emergency. Can we solve that in this Bill?

Finally, I cannot end without commenting on one area in which I have been the most vocal and which was also the subject of legislation that I took through the House: the timely payment of smaller suppliers, and the Small Business Commissioner. Can my noble friend the Minister summarise current expectations on the scale of payment delay and advise on any plans for updated legislation at a future date?

2.15 pm

Lord Blunkett (Lab) [V]: My Lords, I concur with many of the comments that have already been made. I support the thrust of the Bill.

I want to talk about the immediate situation and, therefore, the moratorium. I welcome it but, like my noble friend Lord Stevenson, I think that, in its initial implementation, it is in danger of being too short to be meaningful to many small and medium-sized enterprises. It is about enterprise and entrepreneurship—that is, not just maintaining what we have now but encouraging and supporting those coming out of the virus crisis, as well as providing a bedrock for the future. Would the Minister be kind enough to say a little more about the intentions of using secondary legislation if the initial moratorium period is not to be extended in the Bill?

It would also be useful to know more about the positive role of insolvency practitioners, rather than their negative one. There is potential here to be extremely helpful to those who have a major part to play in the future of our economy but currently face a dangerous potential cliff edge if investors trigger their demise.

Mention has been made of corporate responsibility, not least by my noble friend; I agree in relation to employees but it also applies more widely. I wonder whether we could encourage larger companies to see their supply chain as crucial to them rather than sometimes exploiting their weaknesses, because this is very much about where power lies. I also wonder whether they could mentor and support as part of the recovery programme, and therefore be a positive gain.

I very much welcome at least temporary help with personal liability. For people taking up the opportunity to start a new business and those who are clinging on to survival by their fingertips, personal liability and the reputation that goes with it are important. If we can get this right and avoid those people who deliberately exploit the situation then come back in a different guise with exactly the same company—the bad eggs, to echo the reference made by the noble Baroness, Lady Neville-Rolfe—while ensuring that personal liability absolutely does not discourage people or create unnecessary fearfulness at this moment in time, that would be a very substantial step forward.

It is important that these measures, temporary as many of them are, are seen in the context of the long term. We should therefore see what works and try in future to build in those aspects that have been beneficial to both British enterprise and our wider social well-being.

2.18 pm

Baroness Kramer (LD) [V]: My Lords, I have long argued that the UK needs an equivalent to the US's Chapter 11, so I welcome the Bill. However, the history of Chapter 11 legislation in the United States has not been straightforward. Many companies turn not to federal law but to state law for greater ease of use, speed and cost. Given the complexity and the probability of unintended consequences, I join those who believe that the permanent measures in the Bill, in contrast to the temporary Covid-related measures, should be properly reviewed with a sunset clause or similar mechanism.

I also believe strongly that the Government should drop the provisions in the Finance Bill which would give HMRC, as a creditor, primacy over other creditors. If that is not dropped, small suppliers will be even harder hit in a ripple effect which our economy cannot afford and which in the long run damages the national tax take even more. I want the Government to use the Bill to give greater protection to small creditors, typically trade creditors, in an insolvency.

We know that most small businesses are at a disadvantage when negotiating with big businesses. They often find that they have to accept long payment terms if they are to win a contract. They also find themselves pressured into providing payment holidays. Small suppliers are being put at risk, especially in these uncertain times. The public sector pays its suppliers promptly. The last report from the Financial Services Ombudsman showed that only 1% of payments from public sector bodies took over 30 days and most were within 15 days.

The picture is not the same in the private sector. Late payments to small businesses rose to £23 billion in 2019 compared to £13 billion the year before, according to Pay UK. Last November, long before Covid, the Chartered Institute of Credit Management had to suspend 20 firms from the prompt payment code for failing to honour their commitment to pay 95% of all supplier invoices within 60 days. These were huge and famous companies, including GlaxoSmithKline, AstraZeneca, Unilever, IBM and Diageo. If the public sector can pay in 15 days, the big players in the private sector can pay in 15 days, never mind failing to meet 60 days. I am hoping for changes in the Bill that will strengthen the position of small suppliers. At the very least, the Government should exclude from any of their procurement processes any company that does not observe the prompt payment code in all parts of its business, not just in its government contracts. There is a very strong argument for a tougher prompt payment code and for making the code mandatory.

Secondly, under the moratorium offered in the Bill, payments due to small entities should be paid no later than the end of the first moratorium, not subject to a rolling moratorium which could run for a year or more and, frankly, sink the small supplier. If the moratorium fails and winding up follows, small entities should be pari passu with claimants who refuse to give payment holidays, on the grounds that payment holidays given by smaller entities are invariably given under duress. Many banks, for example, never give payment holidays—for example, for overdrafts—and so have priority in wind-up.

Lastly, I want to explore the issue, raised by my noble friend Lady Bowles, that SMEs can be disadvantaged if they are encouraged to exclude themselves from supplying the company in a moratorium, because that is when payment is best assured. I am sure there will be many more points as we deal with the details of the Bill, but this House understands the direction in which I am now urging the Government to move.

2.22 pm

Lord Hope of Craighead (CB) [V]: My Lords, this is a formidable Bill. Some years ago, I edited the chapters on companies and insolvency law in a practitioners'

textbook and I used to practise in this field myself, so I have some insight into how extensive and complex these subjects are. I pay tribute to those responsible for putting the Bill together. At first sight they appear to have covered the ground very well, but their product has been a challenge for us in this House as we try to master this emergency Bill in such a short period of time.

I have no problem, in principle, with the temporary provisions about meetings of companies and other bodies, or the extension of the periods for filing accounts and providing information for the registration of changes in corporate governance. These are sensible measures in a situation where deadlines of that kind are incapable of being met. The wrongful trading provisions and the provisions about corporate insolvency, however, need to be looked at more carefully. Concern has been expressed about the phrase,

"the court is to assume that the person is not responsible",

in Clause 10, which is about the suspension of liability for wrongful trading. Can the Minister tell the House whether this assumption is intended to be irrebuttable? If it can be rebutted, the protection the clause offers will be less certain than the word "suspension" in the clause suggests. Directors, who, as has been pointed out, may be subject to action for other breaches of duty, will need to know where they stand in this respect.

As for the moratoriums, it is not difficult to see the value of these for companies in financial difficulty, but giving protection to debtor companies that delays the taking of remedies against them by their creditors is bound to have implications for the creditors too as time goes on. It is important to get the balance right between these two competing positions. My impression is that the banks are content, for the time being, not to press too hard on companies that are in difficulties, and the property market is in such an uncertain state in present circumstances that there is little incentive for the holders of fixed securities to call them in. However, in the longer term, as creditors become less relaxed about the situation, challenges will arise that will need to be faced up to. That may be a further reason for keeping the provisions of the Bill under careful review.

I have one or two particular points to make. Further thought needs to be given to limiting debts that are eligible for priority as moratorium debts in order to avoid abuse of that privileged position and, as has already been suggested, damage to the position of HMRC as a preferential creditor, given the immense harm that situation may create, particularly for other creditors. On the notification requirements in Chapter 3(A), should the company not be required to provide a list of its creditors when making the application, to assist the monitor? As for Chapter 3(A9), should there not be a limit on the number of extensions, and an overall limit on them without the creditors' consent? As for Chapter 5(A35), to avoid the abuse of the process should there not be an express duty on the monitor to ensure that the company does not undermine rescuing it as a going concern? I hope to come back to these and other details in Committee.

2.27 pm

Lord Balfe (Con) [V]: My Lords, I too start by thanking the Minister, not only for his clear presentation of the Bill but for his letters and briefings; they have been most useful. I shall make just a couple of points. They concern members of trade unions as well as employees who have a legitimate interest in what is happening due to this Bill. I speak as someone who has a son who runs a small business, so I am not completely unfamiliar with this. It is important to remember when we pass this legislation that employees also have legitimate interests when restructuring plans are adopted. I realise that, particularly in small enterprises, the level of trade union membership is very low; however, whether in a union or not, employees deserve protection and to be taken into account.

I would like the Minister to clarify, on the record, his attitude to protection for people who work in these businesses. In the debate in the other place, the Minister said:

> "Importantly, a court can refuse to sanction a plan if it is not fair and it is equitable to do so. When making this assessment, one would expect the court to be mindful of the interests of employees in any pension schemes affected by that plan".—[*Official Report*, Commons, 3/6/20; col. 952.]

I would like the Minister to say that he is happy with that statement, made by a Minister in his own department, and to place it on the record in the House of Lords. I would also like him to confirm that the Government expect courts to satisfy themselves that plans placed before them are indeed mindful of the interests of employees, if necessary by inquiring whether there are any relevant trade union staff associations or other bodies and whether they have been consulted and have any views to place before the court. We cannot just leave it to the court to hope that things go right: they need to be proactive, to an extent.

I also hope the Government will consider giving pension scheme deficits the status of a priority creditor. This would give them priority over unsecured creditors, and in defence of this proposal I remind the House that a pension scheme is as much a part of an employee's income as the rest of their monthly or weekly salary. It represents, in short, deferred earnings: it is not a bonus at the end of one's working life but something that accrues daily throughout it. As such, I believe it has a right to be considered near the front of any queue. I look forward to hearing the Minister's response to these points and hope he will feel able to clarify them for the record.

2.30 pm

Lord Mann (Non-Afl): My Lords, in any major economic crisis—and this is part of the current world crisis—there will be winners and losers. I was quite amused but not surprised to hear that the hot tub industry is doing incredibly well as people with sufficient money are installing them in their garden—in lieu perhaps of holidays to hotter climates. There will be winners, and entrepreneurs will be critical in coming out of any economic recession. There has been some fascinating research into how new entrepreneurs were critical to economic regeneration in the southern states of the US after some of their climatic disasters.

Some of them will be winners. There will also be losers, some of which may be big and well known. I do not wish to pour gloom by suggesting which kinds of companies, but household names may not survive the next six months, because of how shopping is changing and may permanently change as a result of consumer behaviour.

[LORD MANN]

Therefore, this Bill has many importances—some perhaps beyond its initial worthy impetus. One area that has less accountability and is more poorly regulated than elsewhere is that of insolvency practitioners. From my experience, they always seem capable of charging the fees they are entitled to charge but sometimes, in cases where I have assisted companies, they do not seem to do a great deal more than that. That is a small sector that needs stronger regulation.

There are also landlords exploiting the situation, some of them offshoring, doubtless often for tax purposes, and in receipt of taxpayer support, and endangering the small, emerging businesses—which are sometimes well located and paying higher rents—which are precisely the businesses that will be the engine of recovery and which could be killed by cash flow. The invidious position of those offshoring is not addressed here and could be considered.

Pension funds have been raised already. If major, traditional, long-standing companies end up being the losers, some of them will have major pension funds. It is not just the social justice question, which is of significance in itself, but the economic repercussions for both the local economy and the UK economy if a group of pensioners or soon-to-be pensioners have a significantly lower purchasing power when they have a higher propensity to spend. So the protection of pension funds deserves more attention in the progress of this Bill.

There is also the question of employees. I have assisted people going to employment tribunals where the assets of the company and the directors remain; they start trading again on the same premises, doing the same work the next day, having got rid of a lot of people who then find that, even if they win in a tribunal, there is nothing to claim from. That is not a sensible way to run any economy. The Minister may wish to comment on whether this Bill will have any impact on strengthening that position.

Finally, there is the question of football clubs. That will be a big one that we should be very aware of, in terms of some of the names that may go under.

2.34 pm

Lord Wei (Con) [V]: My Lords, I declare my interests as a company director with involvement in a number of firms that are affected by the current crisis. I welcome this Bill. We need to do what we can to enable firms to weather this particularly difficult situation. In the time that I have, I will highlight from some of the conversations I have been having in the marketplace an observation that there seem to be at least three types of company situation, although I am sure that there are more.

Broadly, there are companies that were basically already insolvent or on very thin margins before the crisis hit us, those that are temporarily insolvent but which are resilient and have a future, particularly those that have a pivot or a plan—we know the stories of much being done in incredibly innovative ways to pivot businesses; for example, pubs becoming supermarkets and drive-through cinemas massively expanding on stately homes—and there are those that are solvent and doing well but, frankly, have taken advantage of the various available schemes and liquidity to give themselves an extra cushion.

There is a danger that, as we move forward, agencies, regulators and financial institutions will not be able to distinguish between these three types of organisation. I am particularly keen that this Bill should provide some of the framework for that greater understanding. For example, a business with great prospects that has for whatever reason decided to delay reporting or to take advantage of some of the measures in this Bill may find later on that it impacts either their credit rating or certain non-legally controlled matters such as the decision to grant invoice discounting, which can sometimes be a pure business decision and not one necessarily governed by law.

We are hearing stories of company directors not being able to get mortgages currently because they are taking advantage of the various available schemes. Is there a danger, as I am hearing from certain quarters, that banks may force businesses into voluntary insolvency in exchange for equity? Under these measures, it may well be that, if I am a bank that wants to avoid being lumped together with other creditors in an unfavourable situation, it would be better for me to withdraw the overdraft to a business unless it gives me equity in that business, which would mean that I would be protected from that creditor-type situation.

Finally, there needs to be a longer-term view. Can we use technologies such as blockchain and give businesses a new option that is not just debt or equity? There are all kinds of instruments: sharing of royalties; securing or collateralising risk within a supply chain, which means that businesses do not always have to rely just on cash from creditors or new investors; starting to separate the delivery of essential goods and services within a supply chain from the actual survivability of a business, as we have seen in the banking world and could do for our supply chains.

Is this thinking around the three layers being taken into account? How can we avoid a cliff edge in a month's time, when lots of businesses might start filing for bankruptcy—do we need to taper this over a long period? What are the Government doing to ensure that credit agencies and other bodies make wise business decisions that may not be governed by these laws but which will still have a huge impact on whether we have a zombie economy or one that will thrive and pivot into the new age to come?

2.39 pm

Lord Adonis (Lab): My Lords, I follow the noble Lord, Lord Wei, in spirit as well as in order, because of his significant concluding remarks on political economy about supporting companies that do not need to be forced into insolvency because they have fundamentally sound business models. I have a question for the Minister, leading on to a wider point.

My question, which shows that I am not an expert in company law, but which will become increasingly significant. particularly if the emergency measures are extended, is: in what order do the Government come as a creditor? My understanding is that where the Government take the form of HMRC as the taxman they are a preferential creditor under the provisions of

the Finance Act. However, a lot of the Government's priority for being repaid will come through coronavirus business interruption loans and other forms of financial support, which could conceivably include furlough support if that is continued into the medium term. I would welcome the Minister's explanation of this, but my understanding is that where the Government come in the queues depends on what category of government support it is. If it takes the form of a coronavirus business interruption loan paid through a bank, they simply come in the order of the bank. There is no provision for the Government to get any recognition of the fact that they have possibly pumped huge sums into companies through, for example, furlough provision. I would welcome the Minister's confirmation of that at the end.

However, the wider political economy point behind this is stark staring obvious. It is important that we stand back from the minutiae of company law. The fact of the matter is that in a lot of these companies the organisation that has put most money into the company, particularly in the recent past, will be Her Majesty's Government, through furlough support, business interruption loans or possibly, if the Government chose to exercise discretion in the matter, their ability to reschedule or suspend payments due to HMRC.

The question that surely arises is: are the Government taking a strategic approach to their own role as a creditor across the various different forms of credit that they are providing to maximise the health of the economy? My understanding of the Bill is that that is not taking place at the moment. Understandably, we have a lot of very techy changes to insolvency and company law, essential for dealing with the immediate crisis we face in the next few weeks, but the point I make to the Minister is: would it be sensible for us to stand back from this and look, in a political economy sense, at the role the Government could play in sustaining the strength of the economy by pooling all the support they are providing to companies—those covered by the Bill with the Government as a creditor for loans, those covered by other legislation, such as the priority given to HMRC under the Finance Act, and those that do not appear to be covered at all, but which are hugely important, such as the furlough support—and for the Government themselves to take a view? That might well, for example, involve the Government taking stakes in companies as a means of sustaining them over the medium term, rather than forcing them, even if it is in a somewhat elongated provision, into insolvency.

That leads to the comment I would like to make. We have, of course, been here before; we are not reinventing the wheel in terms of very serious economic shocks. During one of the greatest shocks of the last century, the financial crisis of 1929 to 1931, John Maynard Keynes—maybe the greatest gift of this country to economic science in history, apart from Adam Smith—argued that the solution to dealing with the crisis faced then, with mass company insolvency in the 1930s, was not wholly in the public or the private sectors, but rather that the Government should

"experiment with all kinds of new sorts of partnership between the state and private enterprise. The solution lies neither with nationalisation nor with unregulated private competition; it lies in a variety of experiments, of attempts to get the best of both worlds."

That is the position we face now. I would very much welcome some reassurance from the Government that they are looking at these wider political economy considerations.

2.43 pm

Lord Hodgson of Astley Abbotts (Con) [V]: My Lords, I begin by thanking my noble friend for his explanation of the Bill's proposals. Secondly, I draw the House's attention to my entry in the register of interests as a director of several companies that would be affected by the Bill's provisions. It has been made clear that the Bill has been brought forward because of the pandemic. I understand and support that. Nobody who has been a director of a limited company will be unaware of the dangers of trading while insolvent, and who can judge what is solvent in the present very confused circumstances? This aspect of the Bill has my support for a further reason: all the provisions are time-limited, so even if our inevitably rushed judgment proves faulty the sunset clauses will ride to our rescue.

Wearing another hat, I chair your Lordships' House's Secondary Legislation Scrutiny Committee, which has been looking at, examining and reporting to the House on a great number of coronavirus regulations. There has emerged a tendency of the Government to try to tack on to coronavirus regulations some permanent changes to our law. These may not be objectionable, but they pass through under the radar of the coronavirus regime. We have been drawing these to the attention of your Lordships' House in our weekly reports. Mixed provisions in regulations, which are of a lower order of significance, are one thing; mixed provisions in primary legislation, leading to statute law, which is what we have here, are quite another. Under the guise of the requirements of the pandemic, the Government are rushing through—I use that word advisedly—permanent changes to the insolvency laws of this country.

Let me be clear: I am not opposed to changes and review of insolvency laws. Some 15 years ago, I sat where the noble Lord, Lord Stevenson, would be sitting if he was in the House, leading for the Conservative Party on what became the Companies Act 2006. We brought together every aspect of company law with two exceptions, one of which was insolvency law, because the complexities were too great for us to reconcile them there and then. So, 14 years later, I quite understand that the situation will not have improved, but it remains an immensely complex area, reconciling the irreconcilable. It is an area where unintended consequences, as the noble Baroness, Lady Bowles, pointed out, crop up with unhelpful frequency and where there are people who seek to exploit gaps with unattractive and unregulated behaviour.

What am I concerned about? My worries include the changes to the creditor position of HMRC; the ability of creditors to game the system where the banks and financial institutions are sufficiently bound into the new approach; the future role of the pre-pack watchdog; and provisions for appointing monitors and for ensuring that they are not conflicted. All these are no doubt answerable, but they are not properly answerable in a rush.

To conclude, I understand the need for this legislation to be passed speedily, but I deplore permanent changes to our laws being made under the guise of the pandemic.

[Lord Hodgson of Astley Abbotts]
I hope that my noble friend will consider tabling amendments to apply sunset clauses to the whole Bill. The Government will get their Bill and we could then come back to these very knotty and conflicting issues in calmer times and with the benefit of some real-life experience. In his opening remarks, my noble friend referred to the R3 briefing from Scotland. The R3 briefing from England makes it clear that it is not clear about the detail yet. Indeed, the Minister's own departmental website quotes Jennifer Marshall, a past president of the Insolvency Lawyers' Association, as saying that she is looking forward to
"digesting the detail with interest."
If these two people, with their great experience, are not able yet to understand the detail, surely we should not be rushing these provisions through now.

2.48 pm

Baroness Drake (Lab) [V]: My Lords, I draw attention to my registered interests. The Government's desire to allow distressed companies a breathing space while exploring a potential rescue is fully understandable, but fast-tracking cannot ignore an unintended consequence. The Bill weakens the position of DB pension schemes and the Pension Protection Fund in the event of insolvency or restructuring. It grants super-priority status for unsecured banking and finance debt if the moratorium is followed by an insolvency or restructuring, ranking it above pension scheme debt. Importantly, trustees might not be able to enforce a security that they have in place with an employer, such as a floating charge or a security over property. That is a big issue if the scheme's covenant and valuation had been tied in with that security.

If the company does not emerge from the moratorium intact, elevating this class of unsecured creditors could be materially detrimental to the level of recoveries that the PPF, acting as creditor for a scheme, can achieve through insolvency proceedings. The moratorium and restructuring plan process will not, as it stands, trigger a PPF assessment period or a scheme's Section 75 debt. This means, and here is the rub, that the Pension Protection Fund is not engaged as a creditor for the scheme. It will not have a voice in the restructuring plan discussions and new arrangements intended to shape the future of a company, which is the scheme's sponsoring employer. Without a trigger to engage as a creditor, the PPF's ability to secure better outcomes for the scheme is damaged, yet some finance parties could accelerate all debt and loan payments during a moratorium, so the entire finance debt benefits from the super-priority.

The case of Arcadia brings these concerns to life. There, the original CVA proposed a cut in deficit reduction contributions by half. It was the PPF, exercising creditor rights and working with the regulator in the absence of the new super-priority, which influenced a significantly better mitigation outcome, including security over group assets, £100 million in cash and increases in deficit contributions after three years.

Again, 12% of the Pension Protection Fund's assets, around £4 billion, come from recoveries from insolvent employers. It is a critical income stream reducing the strain on other employer levy payers. I do not believe the Government intended that the PPF would not have a seat at the table for key creditor discussions or would be denied a meaningful voice on employers' liability to the scheme. That could not have been intended when the restructuring plan procedure can compromise creditors' claims and standing and a cross-class claim can impose it on creditors. The restructuring plan involves court oversight and approval, but it is unclear what rights of challenge the PPF would have, what standing the regulator would have and how a pension scheme claim would be valued for voting purposes.

Changes to the Bill are needed to ensure that the moratorium and restructuring plan discussions trigger a PPF assessment period or a passing of creditor rights to the PPF giving it a seat at the table and influence to address some of the implications of unsecured finance debt being granted super-priority over the pension scheme. In the helpful briefing session the other day, the Minister advised us that the department is having discussions with the DWP and the PPF. I hope they turn out to be positive, but in Committee appropriate amendments will need to be considered.

2.52 pm

Baroness Burt of Solihull (LD) [V]: My Lords, like my colleagues, I give an overall welcome to this legislation. I understand that the urgency of helping businesses during the pandemic and its aftermath necessitated bringing it forward now, but can the Minister assure us that the missing bits, particularly on corporate governance, will be brought forward in a timely manner? In the time available I shall pick up a couple of issues of particular concern to small businesses, and I would like to record my thanks to R3 for its assistance.

My concerns are regarding the position of suppliers, particularly small suppliers, in two respects. First, under the new essential supplies provisions, small suppliers are required to continue supplying a company which has succeeded in obtaining a moratorium. Given small suppliers' position at the bottom of the creditor waterfall, what protections will be in place to prevent small businesses having to continue supplying an entity that may then enter an insolvency procedure? Secondly, while the moratorium is welcome, there is concern that some larger creditors may game the moratorium by scheduling large repayments during that period, thus ensuring they get paid above other, smaller creditors. I expect the Minister may receive an amendment so that only interest and charges incurred during the moratorium rather than scheduled debt repayment can be eligible for super-priority in a subsequent insolvency procedure.

However, none of the provisions in the Bill will help business in continuing to trade after the pandemic if Part 4 of the Finance Bill, which changes the order of preferential creditors on insolvency, comes into being. Small suppliers will not only find themselves at the bottom of the pecking order for payment but in all probability will find access to credit, particularly from floating charge lenders, cut off. Floating charge lenders, who lend against a changing asset, such as stock, are very important, particularly to small businesses. They came into being after the rules on preferential creditors were changed in 2002 to what they are today, so why change it back just when they are needed more than ever?

Who would continue to lend if the chances of getting their money back in the event of insolvency were severely diminished?

The Government have not published a proper impact assessment or the data used to arrive at the anticipated revenue to the Treasury of £185 million, but UK Finance, the body that represents many floating charge lenders, while noting that it is difficult accurately to model the policy's impact on business lending, estimates that the policy could hit lending by well over £1 billion per annum and possibly far more. How can this be a cost-effective measure for anyone? At the very least, can the policy be paused so that a proper impact assessment can be done or could a 12-month cap on age debts eligible for preferential status be imposed? Would the Minister consider an amendment ensuring HMRC's preferential claim does not outrank floating charges created before December 2020?

The Minister and I have discussed this issue before, and I hope that in his response he will update the House on the outcome of discussions he has had with his colleagues in the Treasury.

2.57 pm

Lord Vaux of Harrowden (CB) [V]: My Lords, insolvency rules are a delicate balance between giving a business the best chance of survival while protecting the position of creditors. In these difficult times, it is appropriate to move that balance a little towards the survival of the business for the greater good of the economy, so I generally support the Bill.

I want to raise two issues that relate to the protection of creditors. First, and echoing the noble Baroness, Lady Burt, the Bill prevents a much wider range of suppliers terminating a contract when a company enters the insolvency procedure. This is a permanent change. The Bill gives a temporary exemption to small companies during the current pandemic, which presumably recognises that continuing supply may be disproportionately difficult or risky for a small company, but this exemption is only temporary. This is an area where I think the Bill may have tipped the balance too far from protecting creditors. Will the Government consider a permanent exemption for at least the very smallest businesses which are most likely to be at risk in this situation?

Secondly, like several noble Lords, I want to raise pre-packs. Around one-quarter of administrations involve a pre-pack deal where the sale of all or part of a business is agreed with a purchaser, often a connected party, prior to the company being put into administration. Pre-packs can be a useful and appropriate business rescue tool, but there is a very strong perception of a lack of transparency and there are concerns that they allow directors to create so-called phoenix companies and simply dump the creditors.

In 2014, the coalition Government commissioned the Graham report. It highlighted that nearly two-thirds of pre-packs involved sales to connected parties. It said that, as well as lacking transparency, pre-packs that involve related parties often involve very limited, if any, marketing and that returns to creditors are often lower. Indeed, unsecured creditors are more likely to receive nothing in connected cases than in unconnected cases.

The Graham report recommended the creation of a pre-pack pool of experienced business people who could provide an independent opinion on whether the proposed pre-pack was reasonable. The pool was launched in 2015. Referral to the pool is purely voluntary and is initiated by the connected party. The Graham report also recognised that this voluntary approach might not work and said that, if that was the case, the Government should consider legislating. Unfortunately, the voluntary process has not worked. Only 10% of connected party pre-packs are being referred to the pool, with just 21 referrals last year. Indeed, the Pre Pack Pool oversight committee has recently written to the noble Lord, Lord Callanan, saying that it believes that the body is unsustainable unless referrals are made mandatory.

As mentioned by the noble Baroness, Lady Neville-Rolfe, the Small Business, Enterprise and Employment Act 2015 included a power to make it mandatory. That power had a five-year sunset clause, and it was allowed to elapse unused just a couple of weeks ago. According to the *Times*, the Insolvency Service blamed Brexit, the general elections and the pandemic for the failure to use these powers. The insolvency and restructuring trade body R3 has also expressed disappointment that no action has been taken to improve confidence in this important business rescue tool.

The Bill gives us the opportunity to fix that. It is important that we act quickly, given the unfortunate likelihood of higher numbers of companies becoming insolvent. Will the Government consider adding a clause to the Bill to make the referral of connected party pre-packs to the pool mandatory? That would be a very simple but important way of making sure that the balance between saving a business and protecting creditors is appropriate and transparent.

3.01 pm

Lord Dobbs (Con): My Lords, the Bill is about climbing out of lockdown and getting back to proper business. If only we could do the same in this House. This debate is not a Second Reading, not as any of us would recognise. During Second Reading of this Bill in the other place, in the physical reality of the House of Commons, there were 16 interventions on the Secretary of State. We know that that makes for better legislation and better government, yet there will be none of that today.

I am here in person simply to show that it can be done. The risks, and there are risks, can be assessed by each of us. We spend our lives assessing risks for others, so why not for ourselves? I thank all those who have worked so hard to get us this far but, without wishing to be discourteous, I say this to the usual channels: "You have struggled mightily and already achieved the very difficult. Now achieve the impossible." We have a job to do, like every doctor, nurse, porter, police officer, teacher, tour operator and shop owner in the country, so bring us back. Keep us in business too.

And so to the Bill. I declare my interests, particularly in the hospitality and creative sectors, which are suffering terribly. Many of us are not down by 20% or 50% but are flat on our backs, so the Bill is important. It says that we do not know precisely what to expect so we must be adaptable and flexible to deal with all the

[Lord Dobbs]
unintended consequences mentioned by the noble Lord, Lord Hodgson. A 20-day moratorium is great, but for many struggling businesses will not be long enough. Ministers must be ready to consider extensions, make rapid decisions, be flexible and learn as we go if we are to succeed not simply in salvaging what we already have but in building anew. We will need to be quick on our feet.

The Bill is just a start. We will probably need to strengthen the powers of the Small Business Commissioner; simplify planning applications; make sure that invoices are paid promptly, as the noble Baroness, Lady Kramer, emphasised; clarify and probably curtail the role of many quangos; speed up decision-making; and ensure that regulators use their pencils, not simply suck them—give businesses the benefit of the doubt and free up free enterprise, in a simple phrase.

When we look back on the last few months, I suspect that we will find that British industry was more than able to provide PPE in abundance, and quickly, but we lost out because those innovative firms in the private sector simply did not fit the parameters set by Public Health England.

There is no place called "safety" right now. We will have to take a few risks along the way but the Bill seeks to strike a balance. Businesses mean jobs. Many employees fear losing their jobs right now, and understandably so. The best protection that we can give those employees is to keep their companies afloat and ensure that more new companies are floated. The Bill is a very good start.

3.05 pm

Lord Mendelsohn (Lab) [V]: I refer to my entry in the register of interests, particularly in restructuring and distressed investments. I welcome the introduction of the Bill, which recognises the extraordinary economic stress and uncertainty by tilting the balance towards restructuring and saving companies. I thank the Minister for his openness and engagement. I am happy to support the measures, especially those that are permanent as a step towards the UK having an insolvency regime that is not just to deal with the economic consequences of the pandemic, but is part of a global process of change started off by the financial crisis.

There is much to go through in Committee on the detailed provisions, so I will outline just a few issues and constructive suggestions that I hope the Minister will address to ensure that these reforms can work to their best and quickly in practice.

The changes to the creditor-in-possession system will be a tweak in a positive direction. However, debtor-in-possession financing is the most effective form of restructuring support as it incentivises existing shareholders, creditors or sponsors to put more cash in. If financing is dependent on new players, that adds a lot of complexity. Does the Minister plan to encourage debtor-in-possession finance through registration?

Do the monitors really have to be licensed insolvency practitioners? The skill sets are not the same. Will the Government consider a suitable threshold for qualified experienced accountants from other fields, even if on a temporary basis? That would certainly help to address the issues around conflicts, cost and availability.

Revenue and Customs as a preferential creditor could adversely affect the availability of funding, especially asset-backed lending, and have a major unintended impact on credit arrangements, unless we can see some clear view of how HMRC will operate. Indeed, under the new Crown preference system HMRC could use its voice to make sure that creditors get a fair deal from post-moratorium planning. Will HMRC publish anything on how it or even the Insolvency Service might work or skill up and operate under these provisions?

Pre-packs will become a more obvious way to game the system. Their exclusion is a charter for abuse. Even prior to the more general review, will the Government consider a simple amendment to make it compulsory for pre-packs to go to the currently voluntary pre-pack panel? The opportunities to game the system are inherent in the language of the moratorium. Will the Government consider that the comparator should not be "winding up"—that is, liquidation—but should be at least as good as "going concern administration"?

The moratorium freeze on payments works well for smaller companies but does not help larger employment-heavy companies as there is no say on bank debt, high-yield bonds or complex financing arrangements. These tend to be the issues that need most restructuring. Will this be dealt with by regulation?

The regulatory framework is not addressed but it is crucial to ensure that the system operates fairly, efficiently and effectively. Can the Minister please give some assurance on what guidance will be given to the judiciary on how to use this and to practitioners on how to use the courts, and on what will be published for us to see during the passage of the Bill?

The oversight of issues around late payment, the abuse of supply contracts and other areas that deal in particular with small businesses are not adequately protected, but they could be by use of the Small Business Commissioner. Will the Government bring forward such an amendment in Committee?

Regulation is required to make sure that potential conflicts and operations of monitors have the right robust system. We cannot really rely on the old cosy world of professional bodies. Can we receive assurances about how the obvious weaknesses in regulation will be plugged and what resources will be applied to it?

Lastly, will the Government include in their regulations provisions to bring in both the Pensions Regulator and the Pension Protection Fund at an earlier stage, to be able to participate and ensure that pension schemes are properly considered?

3.09 pm

Baroness Jones of Moulsecoomb (GP) [V]: My Lords, my concern about this Bill is the same as my concern about the Government's wider response to the current economic crisis, which is that no thought appears to have been given to the risks of propping up failing, climate-destroying businesses. For example, the Bank of England has been giving hundreds of billions of pounds of cheap loans to oil and gas companies as part of its Covid-19 relief efforts.

Although it is essential that we support viable, positive businesses through the coronavirus crisis, the Bill completely misses the mark when it comes to

addressing the much larger and longer-term climate and ecological emergency. It should make provisions that contribute to the 2050 net-zero carbon emissions target; it should contain provisions that prevent public money bailing out carbon-spewing, filthy companies and industries; and it should build a framework for managing the winding-up of planet-destroying companies, which will have no future in a net-zero world.

Trillions of pounds globally are tied up in the assets of these dirty industries, and almost everyone's pension pot will be invested in them. Much of these companies' value will evaporate into thin air when the necessary policies are imposed to reach a net-zero world. The Government should act now to manage this decline in a socially just way, protect pension investments, and prevent precious public funds being wasted in propping up these polluting companies, which will inevitably be consigned to the dustbin of history.

I support the points made by the noble Baronesses, Lady Neville-Rolfe, Lady Kramer and Lady Burt of Solihull, on the issue of timely payments for smaller companies, which are most vulnerable to this crisis. We need to think about how to make it easier for them to survive.

I want to pick up on a point made by the noble Lord, Lord Dobbs, with which I strongly disagree—that somehow a virtual or hybrid House of Lords is not an effective way of holding a Government to account. He cited the House of Commons, where there were many interventions. I point out that interventions are not necessarily of any use. The way that we are operating now shows a great deal of creativity on the part of the House of Lords and I hope that it will persist into the future. I would also like to point out that the noble Lord is a year older than I am and he is therefore in a vulnerable category. We should all take care and listen to government advice about staying at home.

3.11 pm

Lord Blencathra (Con) [V]: My Lords, I have never considered my noble friend Lord Dobbs to be vulnerable to anything, but that is another matter.

I am honoured to be the chair of the Delegated Powers and Regulatory Reform Committee and we will consider the Bill tomorrow. Therefore, I cannot comment on what we might conclude but I want to inform the House that we will have a very important report to make on it, which noble Lords will wish to take into account for possible amendments in Committee. We hope to publish our report on Wednesday afternoon, so the noble Lord, Lord Stevenson of Balmacara, might wish to wait to see what we have to say. However, although I cannot say what our committee will decide, I anticipate that we might draw attention to the very large number of Henry VIII provisions—10 in the first 32 pages—and the very wide range of regulatory powers.

Speaking now in a personal capacity, I can say that I support the Bill. It is important that companies that are technically insolvent can get some breathing space to restructure, with the hope and expectation that they can carry on trading and resurrect themselves.

Although I support the need to make urgent legislation, all urgent legislation inevitably has flaws, which this House normally sorts out—if we have the time to do it. This Bill of 233 pages, one of the most complex we have ever seen, was rushed through the other place—all stages: Second Reading, Committee and Third Reading—in four hours, 45 minutes. The Committee stage to consider 47 clauses and 14 schedules took just 45 minutes. Our colleagues up the Corridor scrutinised this Bill at 12 seconds per page—surely a record. I know that we have a bit more time scheduled in this House, and the Bill must get better scrutiny than it did in the other place.

In the Explanatory Notes, the Government's justification for all the regulation-making powers is that they might have to move at speed and do not want to bother Parliament. However, Parliament has ample time and can move at breakneck speed, as we are doing with this Bill. Emergency legislation is necessary on occasion and justifiable, and it is legitimate in this case, but that does not mean that every change in the future has to be rushed through by regulations, often using the negative procedure, when for major issues an Act of Parliament should be the norm. I agree with the important points made by my noble friend Lord Hodgson.

Finally, I am concerned about the provision in the Bill that a supplier has to continue supplying goods, with possibly no prospect of payment, to a company undergoing this procedure. If the company eventually fails, the supplier who was forced to continue supplying might not get any payment or will be behind a whole list of preferential creditors. We have all had the briefing note from R3, which says that HMRC is now legally the preferential creditor. The Government cannot have it all ways; they cannot compel a supplier to supply goods and then compel him to wait behind HMRC for payment. That is very unfair and, if I were a supplier, I would use the hardship excuse every time to cancel the contract if I was going to be stuck behind HMRC for payment.

3.15 pm

Baroness Warwick of Undercliffe (Lab) [V]: My Lords, until recently I was a member of the board of the Pension Protection Fund—PPF—so, like my noble friend Lady Drake, I want to focus on the impact of the Bill on defined benefit pension schemes.

I recognise the intent and urgency behind the Bill. Businesses have been asked to take extraordinary measures to help control this terrible virus, and we need to ensure that viable businesses survive and get back on their feet. Defined benefit pension schemes and their members want to know that sponsoring employers will ensure that member benefits are secured over the longer term. However, there is a significant shake-up of insolvency, and some of the changes, however well intentioned, could have unintended consequences.

The PLSA and others have highlighted potentially serious consequences for underfunded DB schemes and the PPF. The PPF plays a vital role in protecting defined benefit schemes and enjoys broad cross-party support. We need to ensure that it can continue to perform the role that Parliament has given it. Some provisions in the Bill might make that difficult: they could reduce the ability of the PPF and pension schemes to have any influence in a company restructuring; they could push schemes and the PPF further down

[Baroness Warwick of Undercliffe]
the creditor pecking order; and they could affect the amount that schemes and the PPF might otherwise receive in recoveries.

I want to focus on two things. The Bill proposes a new moratorium to provide struggling businesses with some breathing space to speak to creditors and to try to find a way to continue as a going concern. If a company becomes insolvent within 12 weeks of a moratorium ending, some pre-moratorium debts will be granted super-priority in the insolvency. At present, these are on a par with pension debts but under the proposed change they would rank above pension debts. By elevating unsecured debt finance over other unsecured creditors, there could be a serious detrimental impact on DB schemes and the PPF. It stands to reason that if some creditors get priority status and so, in the event of insolvency, get more, others will get less. Also, those with finance debts and super-priority could start to game the system, as the noble Baroness, Lady Bowles, pointed out—for example, by taking equity in a company or accelerating all debts and loans to bring them into super-priority status.

Neither the moratorium nor the restructuring plan appear to count as qualifying insolvency events, so there is no provision, as happens now, to trigger the start of a PPF assessment period or the Section 75 debt. Therefore, as my noble friend said, neither the scheme nor the PPF have a seat at the table when important discussions about the company's future are happening. That does not seem right or fair.

This matters. There are still more than 10 million members in about 5,500 DB schemes in the UK, the majority of which are already in deficit. Recoveries from insolvent employers are a vital income stream for the PPF: 12%, or about £3.8 billion, of its current assets have come from recoveries, helping it to protect members and reduce the strain on levy payers. The change in the Bill could mean that the PPF needs to raise more levy than it would otherwise have to do from other, solvent businesses.

I believe that these issues could be remedied without a major impact on the overall intent of the Bill. To protect pension schemes and their members, the Government should not let other unsecured creditors—banks or hedge funds, for example—leapfrog up the creditor queue. They should build into the moratorium and restructuring plan appropriate safeguards to ensure that the voice of the PPF is fairly represented so that, as now, the PPF can exercise schemes' creditor rights and represent their interests. Suggestions such as those must surely be worth considering in Committee.

I support the overall intent of the Bill but I want to make sure that it does not undermine DB schemes and the retirement funds of their members throughout the country. The Minister said at his helpful briefing yesterday when I raised this matter, "Watch this space". I hope that that means that officials can work with the PPF and others to find solutions.

3.20 pm

Lord Palmer of Childs Hill (LD) [V]: My Lords, a Bill to seek to deal with temporary conditions, at the same time as permanent reforms, could be a case of "legislate in haste, repent at leisure". Is it prudent to mix permanent and temporary measures? What plans are in place for the Insolvency Service to monitor the effectiveness of this legislation?

In the current situation, the underlying problem to be prevented is a tsunami of liquidations. In the 1990s, there was such a situation. Banks realised the need to ensure that, in a liquidation, there was a co-ordinated sale of assets. Is such collaboration in place, to forestall fire-sale discounts or the mass selling of assets?

Under the Bill, an insolvency practitioner would oversee the moratorium, acting as a monitor, leaving the directors to run the business for a while. If this is not successful, a liquidator is then appointed. I would welcome details on the connection, if any, between the monitor and the liquidator, and some expansion on the questions of the noble Lord, Lord Mendelsohn, with regard to conflict.

I am concerned that, as I perceive it, the prime concern of an insolvency practitioner is his or her own fees, which are still at the top of the preferred creditors list. I also have concerns about the liability of the monitor during proceedings, as it appears to be a high-risk role. In the event that insurance becomes disproportionately expensive, or difficult to obtain, the Government should consider whether to include some limitations of liability. There are further concerns over the requirement for a monitor to obtain bonding, similar to other insolvency appointments, even though, as noble Lords will appreciate, the monitor does not control the assets of the company.

I am concerned at the changes to priority status for certain creditors, and in particular the reintroduction of HMRC's priority status. This matter has been raised by others, including my noble friends Lady Burt and Lady Kramer. Parts of the Finance Bill 2020 undermine efforts to support businesses in the Bill before us. The proposals make HMRC a secondary preferential creditor, thus Clauses 95 and 96 of the Finance Bill should, in the light of the insolvency Bill, be withdrawn. Reintroducing HMRC preference seems to me to be pulling in the opposite direction from taxpayer support being provided by the Government at the current time to help businesses survive. This impacts on pensioners, suppliers, customers and lenders. Trade creditors and floating charge creditors could be forgiven for thinking: what has HMRC ever done for me?

There will be a substantial number of cases where a company is unlikely to be rescued as a going concern, but where part of the business can carry on and the employment it supports be sustainable, if sold off to another company through the administration and insolvency procedure. It is not clear why the moratorium should not be available in these cases.

Companies of a certain size are excluded from the moratorium, and this excludes many private companies with many employees and supply chains. Will the Minister provide further information underpinning this decision, to enable parliamentary scrutiny, or consider extending the moratorium to these companies that are not covered by this Bill?

3.24 pm

Lord Bilimoria (CB): My Lords, the US has had chapter 11 for years. As Secretary of State Alok Sharma said, the Government now believe that

"the package of measures that the Bill introduces will give businesses the best opportunity to survive the effects of the covid-19 crisis and lay the foundations for a bounce-back in the UK economy."—[*Official Report*, Commons, 3/6/20; col. 897.]

Paul Scully, the Small Business Minister, said:

"If a restructuring plan is not agreed, it is worth remembering that the company might enter an insolvency proceeding, which would almost certainly produce a worse outcome overall for all involved. The company might stop trading altogether, which would put all employees at risk of losing their jobs."—[*Official Report*, Commons, 3/6/20; col. 952.]

As the noble Lord the Minister said, businesses and practitioners of insolvency law have largely welcomed the Bill. For example, Kate Nicholls, CEO of UKHospitality, said:

"This is a very important piece of legislation from the Government … The Bill should provide businesses with some very welcome respite from aggressive landlords and valuable breathing space to restructure their businesses."

Jennifer Marshall, a partner at Allen & Overy, said that the Bill represents

"the most significant insolvency reforms in the UK for a generation".

The Institute of Chartered Accounts, where I am proud to be a fellow, said:

"This is a pragmatic move and a useful addition to the government's strategy to protect employment and … will definitely help some businesses survive, but we would encourage any directors with concerns about their company to seek professional advice at the earliest opportunity."

The provisions of the Bill on company moratoriums, termination clauses, restructuring plans, the suspension of wrongful trading regulations, dealing with statutory demands and winding-up petitions, and flexibility around AGMs and filing requirements are all very welcome. As vice-president of the CBI, I can say that it supports the measures in the Bill, with our members widely welcoming the breathing space it will provide. The retrospective application of some of the measures is particularly important as firms continue to struggle with cash flow. Matthew Fell, one of our directors, said:

"The CBI welcomes these interventions at a critical time for business. The temporary suspension of wrongful trading provisions, along with other measures, will give much needed headroom for company directors to enable otherwise viable businesses to use the government's support package and weather this crisis."

With the Government's support packages tapering off in the coming months, the timely passage of this Bill will be crucial to provide headroom for management teams across the UK. For firms to understand the extent of their liability, and the options for and likelihood of avoiding insolvency and securing a rescue package, the Bill will be pivotal. At a time when firms are grappling with huge demand shocks, constrained cash flow, and an uncertain picture on domestic and international consumer demand, government support is widely welcomed.

Following the comprehensive financial support package provided by the Treasury, for which business is very grateful, this Bill will help to underpin the Government's requirements for the next stage of our economic recovery in the coming months. We encourage the Government to ensure that businesses, and especially SMEs, which have the least capacity—I hope that the Minister agrees—have as much support as possible to retain jobs and livelihoods in the coming months.

The Minister said that the Bill is about maximising the chances of survival. It certainly helps to do that, but does he agree that, before companies have to resort to its measures, we should support them as much as possible? For example, look at the government loan guarantee scheme. We have 100% bounce-back loan schemes. The original CBIL scheme, from 23 March—two and a half months ago—has seen a 50% approval rate, to 47,000 businesses, with almost £10 billion lent. But under the bounce-back schemes, with a 100% guarantee from the Government, in just over a month £24 billion has been lent, to almost 800,000 businesses. Should not the Government consider matching what Switzerland and Germany are doing, and increase the limit for the 100% loans up to £500,000? That would help businesses, especially as measures are tapered off.

Finally, if we can reduce social distancing from two metres to one metre, that will mean four times as many people in pubs and restaurants: at two metres, there is 30% capacity; at one metre, there is 70% capacity. This could be the difference between opening or not, and between survival or not. Cinemas, theatres—everyone would be helped. France, Denmark, China, Singapore, Lithuania and Hong Kong are doing it—why are we not doing it, in line with what the WHO says? We need to get the economy back up and working as soon as possible, and safely.

3.28 pm

Lord Hendy (Lab) [V]: My Lords, preserving companies in financial difficulties as going concerns is laudable. The workers of such companies will welcome measures that keep at bay corporate predators intent on stripping a company's assets, thus destroying jobs. But the Bill does not eliminate the dangers to workers. Indeed, it contains no specific provisions to protect workers. Let me amplify some omissions which have been touched on by my noble friend Lord Stevenson and others.

Most fundamental is the absence of any obligation that workers and their representatives be involved in proposals for a moratorium or a restructuring—proposals likely to affect them profoundly. The Companies Act 2006 requires directors to take into account the interests of the workers, but they are not obliged to ask the workers for their views. We know that directors commonly ignore workers' interests when a company is in financial difficulty. Often, the workers first learn that the company has gone bust on TV—well after all key decisions have been taken. The 1992 trade union Act requires consultation before redundancy, but we know that too often that does not happen, even where administrators have been appointed. It is cheaper to pay compensation than to keep the company going while consultation takes place. In the Woolworths administration, £67.8 million was paid out in compensation for failure to consult; at Comet, it was £26 million.

Another point is that those payments were not made by the companies, the directors or the administrators. They were made by the taxpayer, under legislation that

[LORD HENDY]
requires the National Insurance Fund to pay some awards, unpaid wages and pension contributions. The burden is shifted to the taxpayer because the workers' claims are insufficiently protected by insolvency law. It is true that the Insolvency Act 1986 confers preferred creditor status on employees in respect of some unpaid awards, wages and pension contributions. Preferred creditor status sounds good, but it ranks behind all secured creditors, including, often, the shareholders themselves, where private equity is invested by way of secured loans rather than share purchase. After the secured creditors have been paid out, often there is not enough to go around the preferred creditors. In the case of Bernard Matthews, the pension fund recovered next to nothing, while the secured creditors were paid in full. Debts owed to workers outside preferred creditor status rank at the bottom, with all other unsecured creditors. Since the company is, by definition, in financial difficulty, usually there is not enough for them. What is required is to make the benefits of this Bill contingent on the company fulfilling its obligations to their workers first. Noble friends and I will table amendments to achieve this if the Government do not.

3.32 pm

Baroness Falkner of Margravine (Non-Afl): My Lords, it is a huge relief to be back here in the flesh. I give an enormous vote of thanks to all those who have made it possible. I apologise to the Minister for being unable to attend his briefing session on the Bill yesterday. I am afraid that the invitation, which came late on a Friday afternoon, somehow got missed in the flow of traffic to my inbox. If I had known that it was taking place, I would very much have liked to attend.

My remarks on the Bill will be rather limited. I declare an interest as a member of the Bank of England's enforcement decision-making committee, which is part of the PRA structure. I will thus keep my remarks to the general questions that arise in the course of the Bill. Having said that, I welcome the Bill. It is urgently needed to provide the breathing space and flexibility for firms in the current circumstances. My main concerns are with the intent versus the wording in the Bill, and perhaps the Minister can reassure me as the Bill progresses. Let me give an example from Clauses 18 and 19, which give the Secretary of State powers to amend legislation. The use of the word "procedure" in those clauses is ambiguous and appears to give

"considerable discretion to the Government".

They are the words of the Law Society, which has provided a briefing on this Bill, for which I am very grateful.

These clauses relate to the power to amend and make changes to insolvency or governance legislation through statutory instruments, which extend to both primary and secondary legislation and are indeed very broad. I understand the need for speed, but the nature of these decisions will depend on a number of unknowable factors. If the idea is to give protection to businesses that would be viable but for the effect of the pandemic, as the Explanatory Notes put it, that raises questions about viability and determining it, and the confidence that stakeholders can have in assessing that viability. Then there is the issue of temporary changes to the overall insolvency regime and how long they might last, as well as the method of their review.

Turning to the moratorium and the rule and powers of the monitor, while necessary at a time of economic stress, there is the risk that the moratorium might be overemployed by firms as a shield from creditor obligations. The results of the question about how many companies might seek this route makes me fear that there are inadequate safeguards in place to prevent them exploiting it. The Law Society's suggestion is that there should be a simple test with clear qualifying criteria for firms employing this avenue to buy time. Have the Government had conversations with the Law Society about its concerns?

There is no maximum period for the moratorium, nor any limit to the number of extensions. My concern is that the ability of directors to seek extensions from the court, and the Bill's lack of a maximum number of extensions, may constrain creditor rights, as many other noble Lords have put it. Is there not a real possibility that the directors of a company start in the hope that the business is saleable, but do not quite get that their financial position might be worsening? Does the relative unpredictability of the outcomes that this power allows not disadvantage creditors, particularly those small creditors that so many noble Lords have spoken about?

Should there not be an overall time limit for extensions by the court without creditor consent? There also seem to be insufficient safeguards regarding the appointment of the monitor or additional monitors, or indeed, their duties. Other than professional qualifications, there are no statutory requirements for the monitor to be independent of the directors of the company who make their appointment. When directors decide on a replacement or additional appointment, they do not have to explain to the court why a replacement is being made.

On the face of it, the rules of the court are too limited, but the role of the monitor is potentially too cosy in terms of relations with the directors, and the provisions of creditor rights are too weak. There is much in the Bill to commend but, given the haste with which it has been fast-tracked, much to worry about in terms of the exploitation of well-meaning legislation that may prove to have been inadequately thought through.

3.36 pm

Sitting suspended.

4.45 pm

Baroness Anelay of St Johns (Con) [V]: My Lords, I am grateful to my noble friend the Minister and his officials for their online briefing yesterday. I shall focus my remarks on the economic impact of the pandemic on the voluntary and charitable sectors, and the potential for the Bill to assist them to continue to operate effectively.

The National Council for Voluntary Organisations gave evidence to the DCMS Select Committee in the House of Commons last month. NCVO estimates that charities will lose approximately £4 billion in projected

income in the three months from March this year. Age UK, for example, reported that the closure of its 400 charity shops resulted in the loss of one-third of its income overnight. Some charities have reserves that can be drawn upon, but only marginally in most cases. When drafting this legislation, what meetings did Ministers or officials have with representatives of the charitable sector to take their concerns into account?

Last week, I was able to benefit from a webinar on the Bill, which was set up for the charity sector and hosted by the NCVO, in association with Bates Wells solicitors. I shall draw upon the questions raised during that webinar and seek clarification from the Minister today.

The Bill provides to companies, including charitable companies, temporary easements on company filing requirements and requirements relating to meetings, including AGMs. It is welcome that the Bill permits a period of flexibility for members' meetings in the period 26 March to 30 September. It is also welcome that the flexibility in the Bill allows a charity to do things, even if those things are not permitted by their own governing document. The particular issue on which charities have found difficulty is holding AGMs in accordance with their governing document. They cannot convene an in-person meeting with any guarantee either that they could secure a quorum in the timeframe allowed for holding their AGM or that they could ensure access that is fair to all.

Schedule 14 sets out some provisions on the holding of meetings, and appears to suggest that a quorum can be formed by an entirely virtual meeting. Can the Minister confirm that is the case? Can my noble friend also confirm that, if an organisation has already held its AGM virtually or in hybrid form, even though its rules do not permit that format, the Bill will ensure that the meeting is deemed valid retrospectively? Can my noble friend also clarify the correct way to record the place of a virtual meeting? Is it the location of the chair or the name of the IT platform, such as Zoom or Microsoft Teams?

Finally, I would be grateful if the Minister would clarify exactly which type of charity will benefit from this greater flexibility. Does the Bill cover only charitable incorporated organisations and community benefit societies? If so, it would exclude help to all those charitable and voluntary bodies that have been set up by an Act of Parliament or charter. Have the Government had discussions with such organisations to see what further assistance could be offered to them? Have they also discussed this with the Charity Commission to see what assistance it might provide? I look forward to the Minister's response today.

4.50 pm

Baroness Blower (Lab) [V]: My Lords, I have no specific interests to declare in the context of the debate, but I declare one as a lifelong trade unionist. As such, I always look at proposals from any Government in the light of how they will impact on employees and workers. There is, I am sure, a widespread fear that in the aftermath of the pandemic there is likely to be wide-scale job loss and the prospect of not a little unemployment. This prospect must focus our minds on what can be done to avoid or alleviate it.

The pandemic has brought into sharp focus the significant levels of inequality in this country. Many more people are now aware of just how little others had to live on before the pandemic, and many will look for a better and more equal society in post-Covid Britain, as well as globally. If we are to see a fairer Britain, it will be ushered in by ensuring that employees and workers have well-respected legal rights.

On the surface, this Bill is about rescuing financially distressed companies; I think we can agree that there may be a number of them. We can also agree that maintaining companies so as to maintain jobs is an important objective. However, what potentially may be enabled through the Bill's proposed company restructuring is a situation in which companies restructure their liabilities while remaining in business, with the impact of such restructuring falling very heavily on the workforce—perhaps in particular on employees' pensions. Can the Minister clarify what recourse an ongoing restructured business would have to the Pension Protection Fund?

Further, can the Minister explain the lack of intention in the Bill's proposals to limit in any way executive pay and bonuses, even for a specified period? Nowhere in the Bill is there even a nod in the direction of the need to consult the workforce, much less engage in meaningful negotiations. If this legislation is in part modelled on Chapter 11, as it is popularly known in the United States, it may open the door to what has been seen in some companies in the US: the strategic use of insolvency as a means of jettisoning previously agreed collective bargaining arrangements in order to depress wages, conditions and pensions.

There is an opportunity in the Bill to legislate for the requirement to consult the workforce in any company that is genuinely facing difficulty. This would indicate a desire that restructuring should not be used in an unreasonable strategic fashion. The much-vaunted agenda of levelling up will ring hollow if legislation is not seen to take into account the voices of workers in their own futures. I congratulate the noble Lord, Lord Balfe, on his remarks in this regard and his recognition of pensions as deferred wages.

I trust that the Minister will consider favourably amendments that will be brought forward from these Benches to remedy the lacunae in the Bill.

4.53 pm

Baroness McIntosh of Pickering (Con) [V]: My Lords, I congratulate my noble friend on introducing the Bill. I welcome the thrust of the Bill—bringing forward measures to support company rescue—particularly in the current circumstances of the Covid-19 pandemic and its dreadful impact on business.

Although I overwhelmingly support the Bill, I will raise a number of issues, particularly as regards the role of the monitor and areas where it may be vague and uncertain as to how provisions will apply in practice. I will take the opportunity to ask the Minister: for what reason have individual insolvencies been excluded from the scope of the Bill? Can he clarify the Government's position regarding the monitor? How independent will that person be of the company and its directors?

[Baroness McIntosh of Pickering]

More specifically, will the Government look more closely at the role of the monitor and consider introducing further safeguards to ensure their independence? In particular, could he look at the appointment and duties of the monitor? Should they outline and introduce a statement of how they understand the company intends to use the moratorium to rescue the company? Should the monitor be asked to provide a progress report? Should they be required to file any relevant correspondence between the company directors and the monitor with the court? Finally, would it be appropriate for the monitor to submit a statement of their independence from the company, with a test of that independence?

In spite of these comments, I wish the Bill a fair wind and would be grateful if the Minister could explain, particularly regarding its permanent measures, the monitor's role in reducing financial distress of companies with the introduction of a moratorium.

4.56 pm

Baroness Northover (LD) [V]: My Lords, I commend the Government on the range of measures they have taken to try to ensure that viable businesses do not go under in this pandemic, and that individuals are able to retain their jobs. Nevertheless, as my noble friends and others have made plain, these proposals have been put forward at speed, and in such circumstances there can be unintended consequences. The Bill was rushed through the Commons but already in this Second Reading noble Lords have flagged a range of important questions, not least distinguishing proposals which relate to this crisis and those intended to have long-term effect.

One very troubling feature of the pandemic is the evidence that better-off firms are taking advantage of the Government's crisis measures. These firms may have every legal right to do so, but that does not mean that this was what the schemes were intended for. We can see this in the take-up of loans. Thus, as the *Times* put it on Friday 5 June, "Billionaires and global giants" have taken almost £17 billion in "cut-priced" loans. JCB, owned by the billionaire Bamford family, has taken £600 million.

Governments and central banks have been quick to provide support across the world. In the United Kingdom, the top 10%, who own 47% of private pension wealth and 66% of financial wealth, look to have been almost entirely protected from the downside of this crisis. Some 120 companies among the FTSE 350 are now higher than they were before the crisis. Asset owners have potentially been bailed out, giving firms an opportunity to lay off employees and make cost savings in a way that would normally be impossible. Inequality looks set to escalate.

The Government may intend the best by schemes such as the proposals being examined here, but the more resilient may be better able to take advantage of such measures. My questions are therefore about accountability. What impact assessment have the Government made of the proposed changes? What scrutiny will be brought to bear on companies? Even AGMs can be online. How will companies be held to account, either by those closely associated with them, or by the Government? What protection can be put in place to ensure that companies do not use these temporary arrangements to sack employees or to reduce their rights, especially their pension rights, as the noble Baroness, Lady Drake, and other noble Lords have emphasised?

Like the noble Lord, Lord Hodgson, I recall the very constructive cross-party debates over what became the Companies Act 2006. My concern as a DfiD spokesperson at that time was in regard to corporate social responsibility, particularly as regards environmental impacts and supply chains in developing countries. Can the Minister tell me what consideration has been given to such aspects of corporate social responsibility? Supply chains in developing countries are under huge pressure, as he will know. Will we see rigorous corporate reporting and a requirement to build environmental, social and governance principles into the decisions made by companies covered in this legislation? I look forward to the Minister's response.

5 pm

Lord Hunt of Wirral (Con) [V]: My Lords, I draw attention to my interests as set out in the register. I strongly welcome the Bill and wish it a safe passage, for it is timely, practical and much needed. The principal legislation in this field is of course the Insolvency Act 1986 but it has already been substantially amended by the Enterprise Act 2002. When that Enterprise Bill arrived in the House of Lords, our late and much-missed colleague Baroness Miller of Hendon said:

> "Perhaps a measure along the lines of the American Chapter 11, which has given many ailing companies a breathing space to recover from a temporary setback, is needed."—[*Official Report*, 2/7/02; col. 147.]

As colleagues will know, I have advocated a similar approach for many years.

Chapter 11 of the *United States Bankruptcy Code*, as mentioned by the noble Baroness, Lady Blower, a few moments ago, enables a struggling company to stabilise itself by a number of means, including: renegotiating union and retiree obligations; authorising loans; and the rejection of executory contracts. In replacing Schedule 1 to the 1986 Act, the Enterprise Act 2002 went some way in a similar direction by introducing a new responsibility for an administrator of

> "rescuing the company as a going concern."

I believe it is vital we should go with the grain of what we already know to work, here and abroad. We must also, despite the necessary alacrity, ensure that this Bill is fit for purpose.

In another place my own Member of Parliament, Stephen Hammond, raised a very valid concern about new Section A6(1)(e) of the Insolvency Act 1986 and I reiterate his point. Consideration of a struggling concern necessarily involves high-pressure and speedy consideration of the relevant facts—not unlike the passage of this legislation—so we must take care to get the thresholds right. That new section contains proposed criteria for "relevant documents" that a company might file with the court in seeking a moratorium. One would be a statement from the new monitor, to the effect that

> "in the … monitor's view, it is likely that a moratorium for the company would result in the rescue of the company as a going concern."

I suggest this might risk setting the qualifying threshold rather high. If the principle behind the Bill is to give every firm that might survive the crisis an opportunity to recover and consolidate, should not this legislation say just that; in other words, might not "would" in that new section be more effectively replaced with "could"?

I am also concerned that a monitor who is an insolvency practitioner might potentially have a perceived conflict of interest, unless the legislation states explicitly that they may not be appointed as administrator or liquidator if the rescue plan fails. I have had considerable involvement with the credit union sector and am concerned that the proposed moratorium will not apply there. Perhaps my noble friend the Minister might provide a few words of reassurance. These may be details but they go to the very heart of the legislation and the admirable motivating principles behind the Bill, which I so strongly support.

5.04 pm

Lord Thomas of Cwmgiedd (CB) [V]: I draw attention to my interests as set out in the register. I thank the Minister for his clear exposition of the Bill, and in particular thank the officials of his department in the Insolvency Service for their close consultation with the judiciary. It is important to recall that the judiciary will have the job of making the Bill work when it becomes law, and will have to deal with the additional burdens that it plainly will place upon them. The co-operation that seems to have occurred is an admirable example of what should be done between government and judiciary, each acting within their respective spheres and respecting their respective roles.

My second point relates to the realism with which we must approach the Bill. It is, obviously, urgently needed. It is not going to be easy at all, given the current circumstances, to look at amending or clarifying the many provisions about which concern has been raised, both in this debate and outside, such as those relating to priorities, definitions, exemptions, the role and qualification of monitors and what they are to be allowed and not allowed to do; and to the question of the exit from the emergency provisions or their extension. There is also the obvious risk of error in a Bill that is necessarily being taken through at such speed. Therefore, perhaps unusually, I welcome the provisions in the Bill to permit changes by regulation. For example, on page 11, which inserts new Section A18 into the Insolvency Act, there is a very useful power to change the debts that are to be exempted. Can the Minister say whether there are sufficient powers by way of regulation, with the appropriate safeguards, to enable changes that may need to be made at great speed to be accommodated, bearing in mind the heavy legislative load that will be before Parliament over the coming months? We must realistically look at this, and of course we would welcome the views of the Delegated Legislation Committee.

Finally, I welcome Chapter 11, or the UK equivalent of that. As this is a longer-term form, is sufficient time being allowed for the introduction of that, bearing in mind all the other matters that those who have to deal with this legislation will also have to address?

5.07 pm

Viscount Trenchard (Con): My Lords, I thank my noble friend for introducing this Second Reading debate today with his usual clear and methodical approach. While declaring my interests as stated in the register, I am delighted to be able to speak from these Benches and believe it is important that we should revert as soon as possible to something nearer our normal ways of working, as the House of Commons has done. It may well be that the noble Baroness, Lady Jones of Moulsecoomb, and her noble friend have ample opportunities to hold the Government to account under this system, but I feel myself persuaded by my noble friend Lord Dobbs, who, employing his natural eloquence, made the case for our proper return very well.

The Bill seeks to address the perceived failings in our current arrangements. I was surprised to note that the UK languishes at 14th place in the World Bank corporate insolvency rankings, below, inter alia, Slovenia and Iceland. Japan, Finland and the US occupy the top three positions. As noble Lords will be aware, the Government intend to negotiate free trade agreements with Japan and the US this year, and it would be good if the UK's ranking in the World Bank's table in future approximated more closely to theirs.

I believe that the permanent measures included in the Bill should assist in achieving that. They enjoy the broad support of the legal profession, and the reforms on moratoriums, restructuring plans and termination clauses have been worked on for some time. I hope that the Minister will commit that the Government will review the new insolvency and restructuring arrangements within, say, three years, and make sure that they are working as well as intended. The justification for the fast-tracking of this Bill, however, is driven by the temporary provisions on wrongful trading and winding-up petitions. They are also retrospective in effect, which we rightly normally avoid in this country. I believe that noble Lords will applaud the Government's intention, which is to support businesses which were viable immediately prior to the realisation of the onset of the Covid-19 pandemic, but whose future is now seriously threatened, especially companies operating in the entertainment and leisure sectors.

The Government have introduced several schemes to provide immediate financial relief to companies suffering from the effects of the pandemic, and those eligible to receive loans will be much less likely to need to avail themselves of the protections provided by this Bill. What progress are the Government making in persuading the European Commission to change its definition of "undertaking in difficulty" to permit companies financed through their growth period by shareholder loans to borrow, or to resolve to apply a better definition of viable companies? My understanding is that not all member states are as diligent as we are in applying the Commission's definition, even though we are supposed to have left the EU. Creditors' rights to make winding-up petitions are curtailed by the need to satisfy the coronavirus test. It is not clear whether this will lead to a view that "it just isn't worth bringing a winding-up petition, so don't bother because you will fail" or whether people will seek to use and satisfy the coronavirus test to bring petitions that might not

[Viscount Trenchard]
otherwise have been brought. It is interesting that judges have already started to grant injunctions to restrain creditors from proceeding with winding-up petitions in cases where the Bill, once enacted, would mean that the petition was dismissed when heard because it would fail the test.

With this Bill, the Government add some useful tools to the toolbox without interfering too much with well-established principles. I welcome the Bill and trust that your Lordships' House will support my noble friend in securing its enactment without undue delay.

5.12 pm

Lord Hain (Lab) [V]: My Lords, with half a million businesses at risk of going under this year because of the Covid-19 crisis, the need for this Bill to try to provide new options for company rescue will be accepted across the House. However, there is a risk of pushing this problem off to tomorrow. There should, for example, be a second wave of support for viable businesses threatened through no fault of their own. Although there will be a further cost to the Treasury, it will be far less than the cost of doing nothing.

There should also be greater protection for consumers where businesses go bust, to protect and strengthen consumer rights, particularly given the terrible impact of the crisis on the travel, hospitality and retail sectors. It is crucial that distressed companies conserve their cash flow to improve their chances of survival, rather than squander it on high dividends, share buy-backs or executive bonus payments. There is scope further to strengthen the protections of the moratorium by providing a payment holiday on loans and by broadening the scope of eligible companies.

On the new restructuring plan, the proposed threshold requiring the support of 75% by value of the members of a class is in line neither with the Chapter 11 plan of reorganisation nor with the new Dutch plan. The proposed higher threshold could enable a small minority of the members of the class to stymie the wishes of the majority. Changing this threshold would facilitate restructurings and ensure that the new restructuring plan was best placed to maximise value for stakeholders.

On the restrictions on winding-up petitions, the protection for debtors is far reaching and there needs to be a presumption in favour of the creditor's position where the company has failed to engage in good faith with reasonable requests for relevant information. This is necessary to ensure that supply chains do not collapse due to debtors abusing their position and not paying creditors, leading to creditors themselves becoming debtors in a downward spiral to financial disaster.

The Government are right to amend the rules to help businesses showing signs of financial distress to survive through the crisis, but they must not do so by removing essential protections for creditors and employees. The Government should introduce further protections for smaller unsecured creditors, who are often employees and smaller SMEs, including through the ring-fencing for them of proceeds of the sale of assets.

I will be joining my noble friend Lord Hendy, who spoke so powerfully earlier, my noble friend Lord Monks and others to move amendments in Committee next week to put in place protections for employees over their pension rights, on which my noble friends Lady Drake and Lady Warwick spoke in ominous but authoritative terms, as well as protections on pay and national insurance contributions, and on gender balance compliance with the Equality Act 2010. But the catastrophic hit on manufacturing—including flagship companies such as Rolls-Royce, Airbus and Jaguar Land Rover—has again starkly exposed the Government's complete lack of any serious or active industrial policy. Britain's smaller businesses need a source of modest equity capital and long-term lending, like the KfW in Germany and the Small Business Administration in the United States. Now is the time to plug that gap.

5.15 pm

Lord Bourne of Aberystwyth (Con) [V]: My Lords, I thank my noble friend the Minister for very clearly and fairly setting out the Bill's scope. It is a mixture of scheduled insolvency reform, which has been waiting for some time, as well as some urgent mitigation measures relating to the present crisis. Like other noble Lords who participated in the debate, I recognise that there is a much wider issue in looking at the political economy questions that the country will face as we come out of the crisis, but I will confine myself to the Bill we have at the moment.

I will first say something about the moratorium provisions, which, as I said, were very much on the stocks anyway and have been brought forward. This is in the vanguard of the first significant reform of insolvency law since those that enacted the Cork committee recommendations in the 1980s. I welcome them, but I have two significant concerns. The first relates to the seemingly open-ended nature of repeated moratoria, or at least an extension of the single moratorium, into the future ad infinitum. I would welcome the Minister's reassurance that that is not envisaged and on how it can be prevented.

My second significant concern has been mentioned by others, such as my noble friends Lady McIntosh of Pickering and Lord Hunt of Wirral, and relates to the role of the monitor. We need to ensure that the monitor, although an insolvency practitioner as required under the Bill, is independent of the company. I would welcome the Minister's reassurance that that will be the case.

I turn briefly to the wrongful trading provisions. I agree very much with the comments of the noble and learned Lord, Lord Hope. The Minister spoke of this as a suspension of wrongful trading. As drafted, it is not; it is a mitigation of wrongful trading because it allows for an assumption of the directors acting in relation to trading, rather than ensuring that it is not the case. In other words, as it stands it is rebuttable, not an actual suspension. I do not know whether that is the intention that needs to be looked at.

I very much welcome what is being done on company meetings. I would have provided for this on a long-term and indefinite, rather than limited, basis, allowing what is the position of common law: for meetings to be held remotely. The case of Byng v London Life Association in the 1990s established that the essence of an effective meeting is the ability to interact and participate, rather than physical presence one with

another—something that I am sure we all recognise at the moment as being the way we are proceeding. Like my noble friend Lady Anelay, I would welcome an assurance that these provisions relate to all sorts of meetings. There is a fairly exhaustive list in the Bill, but I do not know whether it is totally exhaustive. It might be wise to provide a catch-all provision, or at least to allow the Secretary of State the power to extend it to other bodies. It seemingly covers trade unions, charities and so on, but it might be that something has been unintentionally missed out.

Subject to that, the provisions relating to meetings are very much to be welcomed. In broad terms, the Bill is something we should support and I certainly do so.

5.20 pm

Lord Leigh of Hurley (Con) [V]: My Lords, I refer to my registered interests. I welcome the Bill, which contains many measures I called for the Government to enact in our Budget debate in this House on 18 March, when it was becoming clear that urgent action was required on insolvency. I thank the Minister and his officials for taking time to meet me and Jon Moulton regarding this Bill, following my interventions on Part 10 of the then Small Business, Enterprise and Employment Bill in earlier years. Given the time restrictions, I will make a few overall comments which impact on the core of the Bill, which, although a very commendable piece of legislation, has for reasons we all understand had to be rushed through Parliament.

First, can we all agree that the prime objective is to save businesses and jobs? This is not the same as saving companies. The actual Ltd or plc companies which could get into trouble are not important here. If they go into the moratorium, most will certainly fail; the weak ones will not even be able to go into it because of the restrictions. However, the businesses of those companies and the jobs pertaining to them might well be saved, and the Bill as currently drafted does not really differentiate between the two. I am told that when the Enterprise Bill was being debated in 2002, many MPs—though I am sure not my noble friend Lord Hunt—could at times not really appreciate the difference between a company and an enterprise. Let us not make that mistake again, because it is crucial.

Secondly, there is no proper US Chapter 11-type proposal in this Bill. I appreciate that the Government are not yet ready to promote this route, but there has not been a proper, informed debate on whether it is a good idea. There are literally trillions of dollars globally looking for a place to invest right now. Perhaps we should allow debtor in possession-type financing so that rescue finance, of course under court approval, could provide an essential lifeline to viable businesses. It must rank at the top of the waterfall and be obtained very early, with some protection for people such as super-senior lenders and others. If there were ever a moment to promote a rescue financing scheme in the UK, this is it.

My last major issue concerns companies that have issued traded bonds of over £10 billion. Under the Bill, they are not eligible for the moratorium. It is important that large companies should be able to access the new proposals. Would my noble friend the Minister reconsider this point? The argument against advancing one of these in the past has been that they do not want to interfere with the proper functioning of the market—a very laudable reason—but when large companies restructure there is often a de facto moratorium. The current drafting catches companies with common security structures and makes them ineligible. This cannot have been the Government's intention, which is for the moratorium to apply to all companies except financial ones, so let us have the drafting make sure that only financial companies are excluded.

Before I virtually sit down, I have two requests on matters not in the Bill. First, have the Government considered whether it is healthy that the same firm of accountants can be appointed by the bankers to determine the state of a company's finances and then subsequently be appointed as the administrator or liquidator? I have raised this before; the phrase has been used that it is a bit like seeking medical advice from the undertaker. It is not right and should be stopped. Secondly, I add my voice for the Government to reconsider the Finance Bill's provisions; making HMRC a preferential creditor right now could be a hammer-blow to businesses, rescue and lending across the UK.

5.24 pm

Baroness Bryan of Partick (Lab) [V]: My Lords, Covid-19 has made people more aware of the effects that changes in working practices have had on many workers. It is not long ago that the gig economy and zero-hours contracts were defended on the basis that some workers benefited from not having guaranteed hours or being able to plan and budget for rent, food and other expenses. The vast majority of workers know that there is no substitute for a job with a proper contract, holiday pay, sick pay, maternity and paternity pay, and, at the end, a good pension.

This pandemic has made many people even more conscious of how important these things are. There have been any number of scandals involving insolvency by unscrupulous employers playing fast and loose with pensions, which, as has been said, are workers' deferred earnings.

Can the Minister assure the House that the Government have learned from those high-profile cases and that they recognise that those who suffer most from insolvency are the employees?

Following the collapse of Thomas Cook, many workers, sometimes more than one in the same family, not only lost their wages and long-saved-for pensions but struggled to pay rent and mortgages, putting their homes at risk. These uncertainties increase the likelihood of marriages breaking up and other social, physical and mental health problems. The Bill makes one think that the Government have not learned the lessons about insolvency from the failures of Carillion, BHS and all the others. If they had, they would have included employee representatives in the discussions around insolvency and would have amended regulations so that pension schemes were among the secured creditors.

Another concern about the Bill is that it may not prevent a restructuring plan being used to undermine workers' terms and conditions. We should be concerned

[Baroness Bryan of Partick]
that the legislation has been compared to chapter 11 in the United States. I am more worried than some Peers that this could allow employers to end agreements with trade unions, sack workers, and rehire them on lower wages and poorer working conditions.

Many people hope that some good will come out of this pandemic. They hope that we will do things differently, that our society can be fairer and more equal, and that people's lives can be made more secure. We must of course welcome the aim of keeping companies in business in such difficult times, but this needs to be done with the co-operation of the workforce. This can happen only if employees feel properly valued. As the Bill stands, it is business as usual. I hope that the Minister recognises that that is not good enough and will consider adopting some of the amendments that will greatly improve the legislation.

5.27 pm

Lord Naseby (Con): My Lords, I greatly welcome the Bill and should like to lodge a particular thank you to the Minister and the Chancellor of the Exchequer for the depth of their understanding of the challenge in front of our businesses and commerce. I also associate myself with the words of my noble friend Lord Dobbs. Hybridity is very much a halfway House. Just one Member of the Official Opposition, one Member of the Liberal Democrats and one Member of the Cross Benches are here. This would never have happened in any of the previous 46 years in which I have been across the two Houses. It does not really work for any major Bill such as this. At the same time, every business in the land is having to adjust. They have to do it. We should move faster to adjust in this House.

Look at the challenges. One has only to look at yesterday's newspapers, with stories such as the boss of Lloyds urging the state to take charge of Covid debt, or the warning from the chief of Heathrow that 25,000 jobs are at risk—let alone the people who are dependent on Heathrow. These are huge numbers of people in difficulty.

I had the privilege of speaking on Second Reading of the Coronavirus Bill. I raised three issues. First, the Prime Minister said that we would take action to save the NHS and save lives, and I suggested that the economy should be added to that. Secondly, I suggested that Winston Churchill had Lord Beaverbrook to help him, and a little later on some help came from one of our colleagues to help with PPE. Thirdly, I asked about testing and the WHO recommendation to "Test, test, test". Rather late in the day, we started on that front.

It is disappointing that SAGE does not have a senior economist to be called on; there is no Keynes in SAGE at the moment. On top of that, we have two further hindrances. The first is the two-metre rule—a huge hindrance. Right at the beginning the WHO said that one metre was enough, and France, Singapore and others have followed. Even if we rely on the science, why, with great respect, do the Government not read the latest issue of the *Lancet*, which proves almost beyond doubt that the differences between the two are minute?

I know the WHO from personal experience. At the time of the tsunami in 2004, Her Majesty's Government said that fish were eating the dead bodies of the people who had drowned. I challenged that; I am married to a doctor and my eldest son is a doctor, and the three of us got hold of the WHO and asked it to rule on it. The WHO said there was no evidence at all for it, and the advice from the British Government was withdrawn.

What on earth are we doing on quarantine for travel? We know, and the Government have admitted, that the effect on the virus is marginal, but it has a massive effect on the airlines, the travel industry and indeed our exporters.

The Bill is important. I just think that there are two practical areas that should be considered. One has been raised by my dear and noble friend Lord Hunt of Wirral: "could" should be substituted for "would" when we are talking about the moratorium, and I hope the Government will have a look at that. The other is the repositioning of where HMRC comes in the list of creditors. It seems to me that the change suggested there will adversely affect floating-charge creditors and unsecured creditors.

Having said all that, I wish the Bill a fair passage, and once again thank my noble friend the Minister for all the work that he and his team have put into it.

5.32 pm

Baroness Barker (LD) [V]: My Lords, I wish to address the different types of company that will be impacted by the legislation but about which there is little in the Bill. There are 43 building societies and 27 friendly societies registered under the Friendly Societies Act 1992, some 9,000 registered under the Friendly Societies Act 1974, co-ops, mutual benefit societies and credit unions, all of which have binding rules with regard to the holding of their AGMs—plus 22,000 charitable incorporated organisations, as well as 4,500 more in Scotland. While the temporary provisions of the Bill, such as the relaxation on the holding of AGMs and some types of filing, are welcome, the permanent provisions should have been subject to greater scrutiny than is possible in three short days, and including them in the Bill is opportunistic of the Government.

I want to look at Clause 10, containing the new arrangements regarding wrongful trading. Many charities that may be constituted as companies limited by guarantee or charities that are beneficiaries of wholly owned trading companies have not been eligible for the furlough scheme or CBILS. The sector has lost £4 billion in the 12 weeks from April to June. Charities on average hold reserves of between three and six months' expenditure, and charities that are active in the area of arts and sports, even if they are open soon, are unlikely to generate income at pre-Covid levels. For all of them, Clause 10 will be most important from July until the end of 2020. I therefore ask the Government whether they will think now about changing the timescale for Clause 10.

The main proposals that apply to CIOs are in paragraphs 43 to 49 of Schedule 3. Paragraphs 58 and 59 enable regulations to be made to apply the moratorium provisions to co-operatives and community benefit

societies, while paragraph 54 alters the definition of "insolvency" in the Insolvency Act 1986 as it applies to organisations of those types. What do the Government intend to include in those regulations? When will they be published? When will CIOs, mutuals and co-ops know how the regulations will apply to their businesses? Have the Charity Commission, Companies House and the CIC regulator been involved in the drawing up of the regulations that apply to these companies?

Could the Minister explain the exemptions for registered social landlords? Given the potential rise in extensive homelessness, that is very important. Have local authorities been involved in the discussions about those companies?

In their initial handling of Covid, the Government made a fundamental mistake in March by putting in place measures that treated all companies the same. They are not. These companies are different; they are subject to different tax regimes and different laws. The Bill must not compound the problems that are currently in danger of putting thousands of charities and social enterprises out of business. Will the Minister agree to meet representatives of charities and social enterprises before the Bill reaches its next stage? For once this sector should be at the forefront, not the end, of the Government's considerations.

The Deputy Speaker (Baroness Garden of Frognal) (LD): I understand that the noble Baroness, Lady Kennedy of Cradley, will no longer be speaking in this debate. I therefore call Lord Flight.

5.35 pm

Lord Flight (Con): My Lords, I first draw attention to my entry in the register as chairman of Flight and Partners, which is a recovery fund.

The Government's intentions for this Bill are well meant and are to help businesses survive. My concern is that its impact could be substantially contrarian and would damage, in particular, the SME sector. The Bill is being fast-tracked through Parliament with the consultation process being crammed into six weeks. Temporary measures in response to the crisis can be amended, but the worry is over the more complicated, permanent parts of this legislation.

The main measure is the new company moratorium, which gives a 20-day moratorium from anyone bringing an action and which can be extended by a further 20 days. We already have the notice of intention where directors can put down a notice of their intention to appoint an administrator. This needs the agreement of secured creditors and protects the company from any creditor issuing a winding-up provision. The NoI lasts for 14 days and can be extended. It has worked well in the SME space, the key being that it involves the secured creditor. The Bill's moratorium procedure has no such requirement. While the bank's security cannot be removed and it would have the legal right to enforce its security post the moratorium, to exclude the key stakeholder from the company's strategic decisions is surely mistaken.

The impact of the Bill will be to increase the risk to lenders. Not allowing lenders any involvement in the moratorium will discourage lenders to this sector, where one of the reasons for their willingness to lend to date has been the ability to act quickly if borrowers are starting to breach covenants. There needs to be a carve-out for SME companies, perhaps using the EU definition of an SME: fewer than 250 employees, turnover less than €50 million and the balance sheet below €43 million. This would mean that banks could safely continue to lend to SMEs, knowing that the moratorium would be available only to larger companies. Without this, the Bill will have a major impact on lending to the SME sector at a time when it is most needed.

There is currently little wrong with the UK's SME insolvency restructuring culture, and the comfort it gives to lenders delivers a vibrant lending culture. I am sure it was not intended that this legislation would damage this thriving part of our economy. It is invariably the case that more businesses fall into insolvency coming out of a recession than going into one, which is all the more relevant today with the enormous help provided by the Government.

The permanent changes to the moratorium and restructuring plan included in the Bill will stifle the ability to borrow in the SME sector and will result in more insolvencies. I urge the Government at least to consider the suggested carve-out for SMEs.

5.39 pm

Baroness Ritchie of Downpatrick (Non-Afl) [V]: My Lords, I welcome the opportunity to make a contribution to the Second Reading of this Bill. Like previous noble Lords who have spoken, I feel that the provisions in the Bill will undoubtedly protect companies in the execution of their corporate responsibilities during and post this pandemic.

Undoubtedly, the coronavirus pandemic, along with Brexit, has caused uncertainty for many companies. I will give examples from Northern Ireland. The aviation and aerospace industry has suffered a shock. There have been job losses in Thompson Aero Seating, which manufactures seats for aircraft, and in Bombardier, a multinational company, and those job losses have a direct impact on the aviation industry. Ulster Bank published its survey this week, as it has done on a monthly basis since August 2002, and the state of the local economy was the worst it had reported since then. There has been a slight increase in performance since April, but the report shows that the lockdown has caused many problems. So I hope that the Bill will provide the necessary resilience and strength to our businesses as they execute their corporate responsibilities.

Last week, the Northern Ireland Assembly gave legislative consent to the Bill. But it raised two issues—which I too will raise—on behalf of the Irish League of Credit Unions and Enterprise Northern Ireland. The noble Baroness, Lady Anelay, referred to charitable institutions. The Irish League of Credit Unions is a charitable institution, but it has some technical issues. Neither organisation was consulted prior to this, so what level of consultation took place preceding the accelerated passage of this legislation?

Schedule 14 to the Bill applies to meetings held between 26 March and 30 September 2020. The year end for credit union accounting purposes in Northern Ireland is 30 September. Under the standard rules for credit unions, organisations affiliated to the Irish League

[Baroness Ritchie of Downpatrick]
must hold their general meetings within four months of 30 September—that is, by the end of January 2021. Traditionally, most local credit union AGMs are held in November and December, so the Irish League of Credit Unions would very much like to have a resolution to this issue. Enterprise Northern Ireland has suggested that the period proposed in the Bill to present the presentation of winding-up petitions should be extended to cover cases where a statutory demand is served between 1 March and 31 October.

I would very much like the noble Lord to provide me with answers on those two issues. If he is not able to do so today, perhaps he would provide them to me in writing at a later stage. These issues go very much to the heart of the Bill. Although no company has any particular objection to fulfilling its corporate responsibilities, it wants to have the necessary resilience to execute business, to provide jobs and employment, and to provide the impetus that the local economy requires.

5.43 pm

The Earl of Shrewsbury (Con) [V]: My Lords, I declare an interest as a former deputy chairman of Britannia Building Society.

I broadly welcome the Bill, especially the proposed introduction of a moratorium on companies that find themselves in financial distress, which is intended to be a permanent measure. Temporary measures included in the Bill to alleviate pressure on and support for business through the current pandemic are, in my view, a vital move forward and are urgent. It is obvious that the fallout from the pandemic for the vast majority of businesses, especially SMEs—many of them family businesses—will be at the very least exceptionally serious. Many of these businesses are successful and profitable enterprises, but no one has any idea whatever what the financial future will hold as the world pulls through this dreadful time. Anything that the Government can do to alleviate the financial problems facing business must be welcomed. I congratulate the Chancellor on his supporting initiatives to date—albeit that the distribution of loans has been full of problems.

Although the temporary measures proposed in the Bill are vital and have been drafted as a matter of urgency, the measures intended to be permanent have been out for consultation since 2018. These measures, too, are most necessary but require further improvement for the legislation to be able to work efficiently and fairly. This has been flagged up by insolvency practitioners, and their expert advice should be heeded. Will my noble friend confirm that Parliament will have the opportunity to amend any shortcomings in this fast-track legislation in the future through an amendment Bill or through secondary legislation, should that be deemed necessary?

Serious lessons need to be learned from the banking debacle of 2008. Your Lordships will recall that one of the largest banking failures at the time was Royal Bank of Scotland. That bank had a division known as Global Restructuring Group that became infamous. The toxic fallout from that scandal continues today and is well documented. Does my noble friend agree that it is right and proper that financial institutions in this country should be expected, as a matter of law, to act in good faith in all their dealings with commercial borrowers? Profitable businesses that borrowed considerable sums experienced problems as a result of the property downturn. They were placed under the care—if, indeed, you can call it that—of GRG. Their assets were valued and borrowers were often offered a restructuring of the loan, sometimes at a greater figure than the revised valuation. In many cases, GRG declined and sold the assets to a part of RBS called West Register. I believe that, if they had been allowed to sensibly restructure, many of those affected businesses would be active and profitable today.

Given the widespread use by financial institutions of the threat of putting a company into administration as a means of gaining commercial leverage in negotiations with borrowers, will Her Majesty's Government consider protections against such behaviour? What consideration are HMG giving, in the current changes to insolvency legislation or elsewhere, to introducing checks and balances such that financial institutions cannot appoint their chosen insolvency practitioners to run companies into insolvency and thereby control an administration or liquidation process?

In conclusion, I welcome this Bill and its intentions and proposals, but the Government should come forward with their own amendment to enshrine in law that lenders in commercial lending must comply with a duty of care to their borrowers so that, when times get tough, borrowers are treated fairly and properly and that scandals such as the GRG episode never happen again.

5.47 pm

Lord Liddle (Lab) [V]: My Lords, I commend the Government for their urgency in bringing forward this legislation. It is clear that, as a result of Covid, we face a potentially massive corporate crisis affecting companies large and small. Through the moratorium and the associated measures, the Bill provides a breathing space for a restructuring plan—so it is part of the solution, but not the whole solution. As the noble Earl just explained, we certainly do not want a repeat of the way some banks and creditors behaved in the aftermath of the 2009 financial crisis. They certainly did not act in either the interests of the companies or the public interest.

Many speakers have referred to corporate rescues and highlighted various bad business practices resulting from them. I have a lot of sympathy for that, but in our present situation it is absolutely essential that there is an effective corporate rescue mechanism that enables firms with a sustainable future to survive. That is why this legislation is so important.

The noble Lord, Lord Leigh of Hurley, thinks that this rescue mechanism can be financed by the private sector; I am sceptical. I think that the private sector will come in only if it thinks it can buy the assets cheaply and have total freedom, without constraints, to do what it wants with them. I think we will see a need for a massive conversion of debts that companies cannot afford to pay into public equity. The noble Lord, Lord Agnew of Oulton, acknowledged this at Question Time today.

We need a public debate now about how this rescue operation will be organised. There is a great lack of institutional capacity on the part of government to do it; it cannot just be done from the centre. My advice to the Government is to try to devolve the decision-making regionally and expand the role of the British Business Bank. However, none of this rescue will work if, first, HMRC sees its main priority as trying to secure the money it is owed—that would be one hand of the Government not being aware of what the other is doing —nor, secondly, if the Treasury tries to vet every single decision, which would just be hopeless.

Business, of course, has to face up to greater responsibilities, but I think that for small and medium-sized companies we should adopt a lighter touch. The key thing there, in my view, is that public policy should promote a culture of employee engagement. When it comes to the larger public corporations and rules about what dividends can be paid, how much executives can earn and how pensions are to be protected, all that will be inevitable in this process of rescue.

I have a final word for my Labour colleagues. We should not see this as an opportunity to impose heavy-handed regulation and public control on business; we should be trying to move to a reformed, sustainable capitalism. I agree with my noble friend Lord Adonis, who quoted Keynes's remarks about the need for experimentation in public/private ownership: what we need is a new era of public/private ownership

5.51 pm

Baroness Altmann (Con) [V]: My Lords, I declare my interests as set out in the register. I thank my noble friend for his excellent introduction to this Bill, which I welcome. It is clearly in the public interest to support potentially viable businesses that have been affected by the pandemic and give their owners time to explore rescue options and bridge the hopefully temporary disappearance of demand. This Bill introduces the largest reforms to the UK's insolvency framework for nearly 20 years, alongside emergency temporary changes for the current exceptional circumstances, so it does need proper scrutiny.

I agree with the helpful briefing from the Law Society, which recommends introducing more checks and limitations to reduce the risk of the moratorium being abused, such as ensuring the independence of the monitor, limiting the number of extensions and limits on related-party restructurings.

I share the concerns of many other noble Lords, including my noble friends Lady Neville-Rolfe and Lord Leigh of Hurley, about the reintroduction of HMRC's preferential creditor status on insolvency. Indeed, as the noble Lord, Lord Palmer, alluded to, this seems inconsistent with spending so much public money to help firms through the current time. The success of emergency public funding could be undermined by the sudden leap-frogging of HMRC claims on corporate resources, even though I recognise that corporation tax, employer NICs and others will remain as unsecured debt.

I also have concerns about the banking sector being able to take advantage of super-priority status, such as the new provisions in paragraph 13 of Schedule 3, which inserts new Section 174A, and paragraph 31 of Schedule 3, which amends Schedule B1. If the firm fails within 12 weeks, bank overdrafts could enjoy super-priority, catapulting them above a pension fund or other preferential creditors.

This leads me to echo the comments from the noble Baronesses, Lady Drake and Lady Warwick, the noble Lord, Lord Hain, and my noble friend Lord Balfe, among many others, regarding the position of workers' rights, especially protection of the rights of underfunded DB pension schemes and the Pension Protection Fund in the event of employer distress or insolvency. By granting super-priority status to unsecured finance debt and HMRC, among others, the position of the PPF will be significantly weakened.

I recognise that full Section 75 debt, in the light of exceptionally low gilt yields influenced by the central bank's QE policies, could swamp all other creditors, but perhaps the Government could support measures to ensure that the pension fund is not sidelined in amendments to this Bill in Committee. If not full Section 75 debt, there could be super-priority for Section 179 debt or, at the very least, for technical provisions, so that the Pension Protection Fund is not gamed on insolvency by banks or even by HMRC.

Will the Minister consider, as suggested by the PLSA, ensuring that unsecured finance debt is given only the same status as a defined benefit pension scheme sponsored by the employer, and ensure that the PPF will have creditor rights to give it a seat at the table for key creditor discussions?

5.55 pm

Lord Fox (LD): My Lords, I declare my interests as set out in the register. I thank the Minister for his introduction to the Bill, and for the time that he spent explaining it. I am gratified that we find ourselves in the Chamber; I just enjoyed a ceremonial fly-by by several moths, which made me feel that I am back at home.

The noble Lord, Lord Dobbs, seems to be missing the theatre. I read in *Hansard* the fast-tracked debate in the other place and, for all the drama of ministerial interventions, I absolutely believe that the issues raised today in your Lordships' House outnumber the issues raised there. I thank the staff of the House who have enabled all Peers to contribute to this debate, no matter their age, their location or, indeed, their health.

Insolvencies are an important issue, and this has been reflected in this debate. They will determine the fate of millions of jobs in this country, as your Lordships have set out. We on these Benches welcome the spirit of this Bill and its intentions, but of course, the purpose of your Lordships' House is to avoid that phrase that has come from noble Lords' mouths many times: "the unintended consequences of legislation".

The Minister explained very fluently that the Bill is made up of two sorts of legislation, some temporary—emergency legislation, if you like—and some permanent. My noble friend Lady Bowles described that as "lumpy" and the noble Baroness, Lady Neville-Rolfe, described it as "cheeky" but, rather more severely, the noble Lords, Lord Blencathra and Lord Hodgson, called into play the probity of bringing in permanent legislation through a fast-tracked process. It is clear from many

[Lord Fox]
of your Lordships' contributions today that there is considerable concern on all Benches about the way this legislation is being mixed. In the other place, my colleague, Sarah Olney, introduced some amendments that essentially introduced sunset clauses for the permanent elements of this legislation; those amendments may resurface next week, I dare say.

Turning to the moratorium, a key area of discussion has been the role of the monitor. Again, from all sides of the House, there is some concern as to what this role is and how this monitor fits into the various mechanisms of recovery. The interplay between the monitor and the directors is not clear. The directors clearly have a set of legal responsibilities to their owners, to their shareholders. How does the monitor's role fit in? The directors are also required to make all the facts available when dealing with auditors and others. Does the monitor enjoy the same legal access to that company's information that auditors enjoy? The noble Lord, Lord Stevenson, raised Carillion. The role of auditors, even with access to all that management information, is deeply flawed. The Minister probably does not have enough time to set out in detail today the role of the monitor, but for the Bill to carry on, it would be very helpful if he could do so in writing before Committee. It would very much enhance the quality of that debate if we had some bullet points on the monitor's role and how it would do its job.

I turn now to the termination clauses. Many speakers, not least my noble friend Lady Bowles, have set out their deep concern about how these clauses could poison the supply chain within businesses. Again, I do not think it is the intention of the Bill to do that, but it is the Government's role to set out how the supply chain will work. The Bill makes it clear that supplier companies have to keep supplying to businesses that they may suspect are beginning to go under.

I asked the following question of the Minister when we had our meeting, but obviously I asked the wrong question because I got the wrong answer. One of the signs that a business is starting to fail is when the trade credit insurance premiums go up. Supplier companies take out insurance against a customer of theirs defaulting on payment. The first thing that happens is the rate goes up and the second is that the business cannot take out trade credit insurance anymore. I was told that the Bill does not affect trade credit insurance, so we are in the rather poor situation where the supplier would be compelled to continue supplying its customer but would not have access to trade credit insurance because we are not in any sense changing that relationship. That issue needs to be cleared up.

I turn to restructuring, the third of the permanent elements. This introduces a cross-class cram down, which sounds rather like something the French do to geese, but is apparently a perfectly legitimate activity in this country. Indeed, the noble Viscount, Lord Trenchard, will be pleased to know that it is an EU rule as well. However, it looks like it will put a lot of onus on the courts. The noble and learned Lord, Lord Thomas, sounded the alarm about whether the courts would have the capacity or the time to run this. First, does the Minister agree that this will be very helpful to lawyers, who will be the beneficiaries? Secondly, can he confirm that the courts will have the capacity to handle what could be a great many of these wrangles?

We come now to the oft-repeated issue of the role of HMRC and its access to the debt. It is clear—I do not need to repeat all the arguments—that this is an absolutely central issue in the Bill, which needs to be cleared up before we go any further. I hope that the Minister will acknowledge that this is an issue, even if he cannot offer a solution.

A second key point concerns pensions, pension trustees and the PPF. Again, some authoritative interventions have been made by the likes of the noble Baronesses, Lady Drake, Lady Warwick and Lady Altmann, that absolutely sound the alarm bells on this. It is imperative that the Government should go back and rethink where the pension fund sits in the credit waterfall.

Moving to the emergency provisions, by the time the Bill reaches Royal Assent, I think it will have about three days left to run before it has to be extended, so I assume that it is the Government's intention to extend. Given that, why do they not bring forward an amendment in Committee that would save the need to table an SI? I believe that the noble Lord, Lord Stevenson, suggested the date of 30 September, which would be acceptable to these Benches.

On the subject of the suspension of wrongful trading, this is essentially a beneficial measure and we support it. It is clear that it was one of the issues that stood in the way of people seeking CBILS loans early in the process in that banks were looking at businesses and their cash flows in the here and now, which was exactly why they were going for the loan, so the notion of suspending this is perfectly correct.

I have nothing much to say on winding-up petitions, other than that it was broached in the other place that there is a need for the creditor requesting a wind-up to indicate that a business's inability to pay its debt was caused by something other than the Covid crisis. How the creditor is going to make that case will be an issue, and the Minister may have some comment on that.

Also on wind-ups, the noble Lord, Lord Mann, who is not in his place just now, mentioned football clubs. Of course, HMRC is the great winder-up of football clubs. When the process in the emergency legislation has been gone through, there will be tax bills outstanding for previous years and very low cash flow. Will the Minister undertake to talk to his colleagues in the Treasury and ask HMRC to restrain its natural tendency with regard to tax bills when it comes to winding up companies?

There are a number of curious issues. We will go away and look at *Hansard*, and mull over the mixing of emergency and permanent legislation. We will look at the credit waterfall, and in particular at some of the issues highlighted by my noble friend Lady Bowles. We will listen to what the Minister has to say about HMRC, and we will look to see how the Government intend to make sure that banks do not manipulate their position. We will of course also want to hear what the Minister has to say on pension funds. All these issues may resurface next week in Committee.

The message from this debate is that the Bill is not without its problems, and I hope that the Minister takes these on board.

6.06 pm

Lord Lennie (Lab) [V]: My Lords, I begin by thanking everybody who has spoken in this important debate today, and the Minister for the briefings, meetings and information that he has provided on the Bill—it has been very helpful. It has been good to hear so many contributions concentrate on the vital matter of how the Government can produce a framework to support businesses and give them the best fighting chance of succeeding, rather than falling prey to insolvency.

I would like to draw particular attention to the speeches on pensions and pensions governance, by my noble friends Lady Drake and Lady Warwick; on workers' rights, by my noble friends Lord Hendy and Lord Hain; and on encouraging entrepreneurs in the future, by my noble friend Lord Blunkett. I reassure my noble friend Lord Liddle that the Labour Party is no longer interested in replacing capitalism; sustained capitalism is here to stay, I assure him. I also draw attention to the speech of my noble friend Lord Stevenson, who introduced, with understanding, comprehension and intellect, the range of concerns that we have with the Bill and its shortcomings.

In this brief contribution, I will summarise where the Labour Party feels that the Bill could, and should, do more, and indicate where we will table key amendments in Committee. Faced with the most dramatic recession for centuries, we must do all that we can to save as many viable businesses as possible from going under. This will help make the recession less deep and the recovery less difficult.

The Resolution Foundation estimates that up to 7 million people—workers—will face unemployment if the coronavirus pandemic lasts for up to 12 months; already we are at three months. A second wave of support for businesses will be essential if we are to prevent avoidable future closures and mass redundancies. Already, there have been redundancies of 500 jobs at Aston Martin; 1,500 jobs at Lookers; 3,000 jobs at the Restaurant Group; and, as of yesterday, 10,000 jobs worldwide at BP. Surely that must concentrate the mind of the Government to do more, and more quickly, to provide additional help for the sectors that will take longer to recover, such as hospitality, tourism and the arts. We need a recovery plan to take us out of recession.

Having forced the closure of many businesses, it is right that the Government should do all that they can to support these businesses in their rescue and recovery phases. The Government must act quickly. Where the Bill proposes measures that help to reduce insolvency, we will of course support it. Where it needs improvement, particularly to support the less powerful, we will seek to amend it.

On a permanent basis, we think it is right to give breathing space to firms; preventing suppliers from sending businesses into early liquidation is the right thing to do. On the temporary measures, it makes good sense to remove the threat around winding-up orders, and the suspension of personal liability for wrongful trading makes sense on a strictly time-limited basis. Easing the requirements for company filing deadlines and AGMs is also sensible.

The length of time that measures need to be in place is, however, open to question, as my noble friend Lord Stevenson and the noble Lord, Lord Fox, have said. Does anyone believe that extending deadlines until 30 June, or 30 days after the Bill is passed, will really be long enough?

Preventing hostile action against businesses during this time will be essential, until they have enough opportunity to prove their continued viability. Surely the Government, like the rest of us, know that this will take beyond 30 June or 30 days after the Bill is passed. The end of September might make more sense as an initial deadline. Some believe—indeed, some Tories believe—that the end of the year would be a better deadline than that. Many businesses will not even have reopened on 30 June—hospitality, entertainment, restaurants and pubs, to name but a few. How can they hope to be persuaded of their continued viability 30 days thereafter?

The rights of workers are absent from the Government's proposals. As has been made clear by the noble Baronesses, Lady Drake and Lady Warwick, when a company is drafting an RP, surely it makes sense to consult its most valuable asset—its workforce. The legal underpinning of this would prevent the kind of hostility that there currently is at British Airways. Rather than keeping the workforce uncertain and cast in the role of reacting to the proposal, as their jobs and futures are at stake, surely they should have the legal right to consultation and to have their voices heard, as a contribution to restructuring plans.

The treatment of pension funds is curious. I am grateful to the Pensions and Lifetime Savings Association for highlighting this problem. Defined benefit provision schemes, as unsecured creditors, will likely lose out to banks and other financial arrangements, as secured creditors, thereby ranking pension funds below the bankers. In the event of insolvency, by the time the secured creditors have been paid out, there is unlikely to be anything left to pay pension fund contributions. Why do the Government not propose to treat them as priority creditors? Pensions are deferred earnings and their value should not be put at risk by this legislation.

As to the future, the Government should have a credible plan about how they will support the green new deal. Will they put in place new apprenticeships that will support the insulation of our homes, the design and building of electric cars, and the building of new forestry areas—major projects designed to help our economic recovery? If nothing else, this crisis has shown that only government can will the resources to steer companies out of a deep economic recession.

The Labour Opposition support the Government in these measures in so far as they go, although this is a long and complicated piece of legislation, but we have concerns about the limitations of, and other absences from, the Bill. We will table amendments to this effect in Committee. In the meantime, we look forward to hearing the Minister's response.

6.19 pm

Lord Callanan: I start by thanking all noble Lords, both in person and virtually, for their insightful contributions to this debate, which has shown this House at its best, and for the co-operation of many and their engagement throughout the Bill. I thank particularly the Labour and Liberal Democrat Front Benches for the co-operative spirit that they have shown. I am grateful to all noble Lords who have contributed, and who are helping us scrutinise the Bill effectively.

The points raised have highlighted the importance of the measures in the Bill and the necessity of giving them effect without delay. The permanent package of insolvency reforms in the Bill—the moratorium, restructuring plan, prohibition of termination clauses, et cetera—will provide businesses with the space and tools they need to help them continue trading and avoid insolvency during this challenging time and beyond. It is vital that we introduce these measures immediately to help UK businesses weather this crisis and, I hope, thrive on the other side.

The temporary changes to insolvency law introduced are necessary to help businesses get through this unprecedented period. The temporary suspension of wrongful trading liability will encourage directors to use their best endeavours to keep trading through Covid-19 by removing the threat of personal liability. I again reiterate that directors will still be bound by their wider legal duties under company and insolvency law.

The Bill also temporarily prohibits creditors from issuing statutory demands and winding-up petitions against companies unable to pay their debts due to Covid-19. It will give businesses and creditors the opportunity to co-operate to reach a fair agreement and help companies survive. These temporary insolvency measures are retrospective in effect and have been widely welcomed by the business community. They will apply until one month after Royal Assent and can—and will—be extended should it prove necessary to do so. Of course, any case for further extensions will be carefully considered and subject to all the usual scrutiny that this House undertakes.

The temporary changes to corporate governance that the Bill introduces will provide companies and other bodies with much-needed temporary flexibilities on meetings and filings. This is of particular importance at this critical time, when businesses are struggling to cope with reduced resources and, like the rest of us, are abiding by social distancing rules. We have been careful, throughout this process, to take account of the interests of investors and others in devising these measures.

I will now respond to the many points that have been made. Many noble Lords, including the noble Lord, Lord Stevenson, and my noble friend Lord Balfe, raised the important issue of employees' rights. I am in complete agreement with my noble friend Lord Dobbs, who summed it up extremely well—as he usually does—when he said that the greatest protection for employees is to see their company survive. Where employees are included in restructuring plan proposals, they will be treated in the same way as other creditors, including in relation to their right to information, participation in voting and ability to make representations to the court. I can confirm to my noble friend Lord Balfe that I fully support ministerial colleagues in the other place, who said that it is expected that the court would be mindful of the interests of employees affected by a restructuring plan when deciding if that plan is just and equitable.

The noble Lords, Lord Stevenson, Lord Mendelsohn and Lord Hain, my noble friend Lady Altmann and other noble Lords asked about the classification of pensions and defined benefit schemes. Similar issues were raised by the noble Baronesses, Lady Drake, Lady Warwick and Lady Blower. Employees will want the company pension scheme to be able to pay them when they retire. If an employee is not a creditor or shareholder of the company, they cannot be included in a restructuring proposal. The interaction between pensions legislation and insolvency legislation gives rise to some extremely complicated issues, and the Government are working closely with key stakeholders to determine any implications for the Pension Protection Fund, the Pensions Regulator and pension schemes more generally.

The noble Baroness, Lady Bowles, spoke about the prioritisation of debt in relation to moratoriums and termination clauses. If a moratorium ends and is followed within 12 weeks by administration or liquidation, any unpaid moratorium debts, including those to suppliers who were obliged to continue supply under the new termination clause provisions, will indeed receive super-priority. This means that they are paid above all expenses of that administration or liquidation, including the administrator's or liquidator's fees and payments to other creditors, other than fixed-charge creditors.

On super-priority, the noble Baroness, Lady Bowles, and the noble and learned Lord, Lord Hope, both raised points on preventing banks profiting in moratorium. We are aware of the concerns that have been raised about the priority order of debts. We are also very conscious that attempts to game super-priority, by banks or anyone else, should be deterred. The Government are working with all the relevant stakeholders to ensure that creditors are not disadvantaged by these important measures, and we will continue to work to avoid this.

On the knotty subject of HMRC, many noble Lords, including the noble and learned Lord, Lord Hope, the noble Lords, Lord Adonis, Lord Palmer and Lord Liddle, and my noble friend Lord Leigh, raised concerns about Her Majesty's Revenue and Customs climbing up the creditor ranking, not through this Bill but through other work that is being done. This House will of course agree—I hope—that it is important that taxes go to fund our valuable public services. This reform will ensure that when a business becomes insolvent, more of the taxes that have already been paid in good faith by its employees and customers, but which are held temporarily by the business, will go to fund public services, as intended, rather than being distributed to other creditors. This is money that has already been paid by employees but is held by the business. It is important to note that HMRC will remain an unsecured, non-preferential creditor for taxes levied directly on businesses, such as corporation tax and employer national insurance contributions.

I thank the noble Lord, Lord Stevenson, and my noble friends Lord Dobbs and Lady Neville-Rolfe for their important points on the need to extend the powers of the Small Business Commissioner. This Government intend to fulfil our manifesto commitment to consult on extending the powers of the Small Business Commissioner to advocate for and support small businesses as soon as we are able. We are keen to capture as many views as possible to ensure that the policy response is the right one. In light of businesses having furloughed staff and other priorities, we do not believe that consulting now would be the correct course of action.

The prompt payment code was raised by the noble Lord, Lord Stevenson, as well as the noble Baroness, Lady Kramer. The code now has more than 2,400 signatories. UK legislation already effectively establishes maximum 30-day payment terms for contracts for the supply of goods and services between businesses and public authorities. There are 60-day maximum payment terms between businesses, although longer payment terms may be agreed, provided that they are not grossly unfair to the supplier. To make the voluntary code mandatory without further appropriate modification would in effect set maximum payment terms for large companies when contracting with smaller suppliers.

I understand that it might seem desirable but, while setting limits on the maximum legal payment terms might address the problem of lengthy payment periods in some commercial contracts, we believe the disadvantages of a one-size-fits-all approach are of greater significance.

I thank the noble Lord, Lord Stevenson, my noble friend Lord Bourne and others for raising their concerns on the need for directors to continue to act in good faith when wrongful trading liability is suspended. Let me reassure them and other noble Lords who raised this point that directors will still be obliged to comply with their normal duties, as clearly set out in the Companies Act. Other remedies will remain available where directors do not meet acceptable standards of behaviour, such as fraudulent trading provisions. I therefore hope that noble Lords will agree that, with these provisions stated elsewhere, putting them in the Bill is unnecessary.

I pay tribute to the noble and learned Lord, Lord Hope, for raising an important point on the role of the court, as mentioned in Clause 10, in relation to wrongful trading. Let me reassure him that the wording of the clause is sufficient to direct the court to make an assumption. It does not invite an argument to the contrary. The noble and learned Lord may be aware of similar provisions elsewhere in insolvency legislation which create the possibility of rebuttal. For example, where a preference payment is made by a company, which may be clawed back by a liquidator, and the recipient is a connected party, it is presumed to have been made with the intention of putting the recipient in a better position in the event of insolvency "unless the contrary is shown". The last part of that provision creates the opportunity for rebuttal, and Clause 10 does not use such language.

The lack of transparency of pre-packs was raised as a concern by a number of noble Lords, including the noble Lords, Lord Vaux and Lord Mendelsohn, and my noble friends Lord Hodgson and Lady Neville-Rolfe. The Government recognise creditors' concerns about pre-packs, particularly where the sale is to a connected party. If strengthening of professional standards and the existing regulation do not deliver increased creditor confidence in connected pre-pack sales, the Government will look to bring forward further legislation.

The noble Baroness, Lady Bowles, asked whether Companies House undertakes scrutiny of information submitted during this emergency. The register of companies is continuously under scrutiny. It was accessed more than 9.4 billion times in the financial year 2019-20. With so many eyes viewing the data, any errors, omissions or worse can be identified and reported. Companies House undertakes numerous checks on the validity of information, both at incorporation and throughout the life of the company as new information is submitted. Companies House will continue to be vigilant during the current period. Compliance with the extended deadlines is still expected, and the existing offences and penalties for late filings, as set out in the Companies Act 2006, will continue to apply.

In addition, my noble friend Lord Wei asked whether late filings should be reflected in the credit rating of a company. This is already the case. Extending the filing deadline will therefore ensure that filings are not classified as late. This will help directors to focus on managing their businesses without being diverted by credit rating changes based on temporary practical impediments to filing while the Covid-19 restrictions apply.

The noble Lord, Lord Vaux, the noble Baroness, Lady Burt, and my noble friend Lord Blencathra raised concerns regarding small suppliers once termination clauses are prohibited. We think it right to give a temporary exemption to small companies at a time when many are suffering due to the pandemic. I entirely understand and sympathise with noble Lords' concerns and the desire to assist small companies; the intention is to do so for as long as necessary in the current economic climate. I assure them that if the protections are needed beyond their present expiry date, they can be extended by statutory instrument. In addition, we have built in numerous protections for suppliers who are required to continue supplying a company during a moratorium or other insolvency procedure, including allowing suppliers to apply to a court for permission to terminate a contract if continuing supply would cause them hardship.

My noble friend Lord Dobbs mentioned the need for the moratorium to run beyond 20 business days. The initial moratorium period of 20 business days can be extended by the company by a further 20 business days, and further extensions beyond that can also be made with creditor or court approval.

On timing, the noble Baroness, Lady Falkner, asked whether there was a limit to the number of times a moratorium could be extended. While creditors can agree to extend a moratorium a number of times, they cannot agree cumulatively to extend beyond one year. A court may extend beyond one year but, when doing so, it must consider the interests of pre-moratorium creditors and the likelihood that the extension will lead to a rescue of the company.

During the debate, we have heard several questions about moratoriums, including from my noble friends Lord Hunt, Lord Flight and Lady Altmann. I assure the House that the qualifying condition of entry into a moratorium is that it is likely that the moratorium will result in the rescue of the company. This will be assessed by the proposed monitor of the moratorium prior to their agreeing to take the appointment.

On the lack of a requirement to seek support from the secured creditors, the moratorium will enable companies to act early, which we hope will increase the chance of a successful rescue. For unsecured creditors, the new moratorium can be accessed only if the company is likely to be rescued as a going concern in the opinion of an insolvency practitioner. Where a rescue is achieved via the moratorium, all stakeholders of a business, including secured creditors, will benefit.

On her point about individual bankruptcy, I assure my noble friend Lady McIntosh that the Government recognise fully the impact of Covid-19 on individuals. We will continue to monitor the situation as a whole and consider whether further measures are needed. Credit card companies and other lenders have been required by the Financial Conduct Authority to offer payment holidays to people struggling to make repayments at this time, and it has issued guidance to lenders about offering mortgage payment holidays and halting repossession actions.

I appreciate the points made by the noble Lords, Lord Stevenson, Lord Mendelsohn, Lord Palmer of Childs Hill and Lord Mann, and my noble friends Lord Hunt, Lady Altmann and Lady McIntosh on insolvency practitioners acting as monitors. Insolvency is a highly regulated profession. Insolvency practitioners are qualified members of a recognised professional body who are required to abide by legislative, professional and ethical standards. There are strict educational and professional competence requirements for becoming a practitioner, and the vast majority are highly professional individuals with a great deal of expertise in insolvency and business rescue. Where an insolvency practitioner fails to comply with required standards, they can be subject to disciplinary sanctions by their authorising body, which, in the most serious cases, can involve them having their authorisation to practise withdrawn. I hope that this goes some way to alleviating noble Lords' concerns.

As the noble Lord, Lord Blunkett, rightly said, the role of insolvency practitioners is positive rather than negative. They can offer professional advice to companies on the best options available and may help businesses to avoid insolvency where appropriate, as well as ease the process where it is inevitable.

The noble Baroness, Lady Jones, spoke about the green recovery. My department is committed to a recovery that is as green as possible, and it is of course responsible for energy and for COP 26.

I turn to the point raised by my noble friend Lady Anelay about charities and the impact that the Bill will have on that sector. As my noble friend said in her contribution, it is important to listen to those closest to the third sector. Colleagues at the Department for Digital, Culture, Media and Sport have developed these measures alongside the Charity Commission. The commission has indicated that it will take a proportionate approach where members' meetings need to be postponed or held virtually in order to comply with social distancing, even if that is contrary to the rules of the charity's governing document. In such cases, the Charity Commission advises trustees to record their decisions, attendees and the time of the meeting in order to demonstrate good governance of the charity. I hope this will provide some reassurance to my noble friend and to those charities that the regulator will adopt a sensible and flexible approach in the current difficult circumstances.

We have heard a number of concerns about the limited time available to scrutinise the Bill, and I totally accept the points made by many noble Lords. These concerns were rightly highlighted and raised by my noble friends Lord Blencathra, Lord Flight, Lord Shrewsbury and Lord Trenchard. The Bill contains a series of familiar measures; in fact, many of these insolvency measures have been consulted on and refined over many months. Her Majesty's Government were always seeking to bring forward reform to the insolvency regime that would bring our regime in line with those of other nations with similar economies. Covid-19 has, sadly, made the need for these measures more acute.

The other provisions in the Bill are all temporary. If the Government wish to extend their operation, both Houses will have the opportunity to scrutinise the relevant order. In addition, any regulations made after the Bill will of course be subject to the usual scrutiny.

The noble Lord, Lord Stevenson, asked whether there was no limit to the overall number of times that the temporary measure can be extended. At present, all the temporary insolvency measures will automatically sunset one month following Royal Assent. The Bill contains a provision enabling these temporary measures to be extended by statutory instrument where appropriate. The Government have every intention of making use of that provision if the protections are needed beyond their present expiry date. The maximum time period for which the temporary measures can be extended by statutory instrument is six months and the power to extend can be used more than once, so there is no absolute sunset.

The noble Baroness, Lady Kramer, asked for the Bill to sunset the permanent measures. The permanent provisions have not just been developed in the short time since Covid-19 first appeared; they have been the subject of a considerable period of consultation and engagement dating back to 2015. This process included the then Government's review of the corporate insolvency framework, a public consultation in 2016 and an extensive period of engagement since then with a wide range of stakeholders. Additionally, the Bill includes regulation-making powers to enable changes to be made as and where necessary.

At present, all the temporary insolvency measures will automatically sunset the month after Royal Assent. These measures all have significant impacts on the normal working of various parts of insolvency legislation and the business community, and they will need to be considered and scrutinised by Parliament when determining when the temporary measures should be

extended and for how long. The Government also have the power to bring any temporary measures to an early end if they are no longer required.

My noble friend Lord Trenchard also raised a point on the introduction of retrospective legislation. The decision to make certain aspects of the Bill retrospective has been taken for specific policy reasons. For example, in the case of the suspension of wrongful trading, retrospection takes effect at the time the Covid-19 emergency began, rather than when the Bill is enacted.

I thank the noble Lords who raised the use of Henry VIII powers. I thank the chair of the Delegated Powers and Regulatory Reform Committee, my noble friend Lord Blencathra, for his comments on these powers. We all look forward to receiving the committee's report on the Bill, which I think is due tomorrow. The Bill contains powers to enable its provisions to be adapted to different types of corporate body or bodies subject to special insolvency procedures, as well as to ensure that the detail of the procedures can be amended in the light of these reforms. Delegated powers are also included to extend the temporary provisions should it prove necessary and to make other temporary amendments to insolvency law to deal with the effects of Covid-19 where needed.

The noble Baroness, Lady Northover, raised a point about impact assessments on the Bill's measures. The impact assessment estimates that the three permanent changes to the UK insolvency framework will result in net benefits totalling over £1.9 billion in today's prices. The equivalent annual net direct cost to business of the three permanent changes to the UK insolvency framework is estimated to be minus £222.9 million. In other words, we estimate an overall £222.9 million annual net benefit.

I will respond to the point from the noble Lord, Lord Fox, about WUPs and the Covid test: how, in this climate, the creditor will be able to show that the test has been met, and whether it is to be fleshed out by the courts. Whenever legislation creates a new legal requirement, it will of course be for the courts to consider how the test should be applied in individual cases. Indeed, this measure is no different. The test of whether Covid-19 has caused the company's difficulties is indeed intended to present a high bar. The measures in respect of statutory demands and winding up petitions are intended to temporarily enforce the forbearance from creditors that the Government have called for.

I will be happy to meet the noble Lord to discuss trade credit insurance. He also asked about what happens if directors do not co-operate with the monitor. The legislation enables the monitor to bring the moratorium to an end if the directors fail to comply with the rules. These include providing information requested by the monitor and paying certain debts due during the moratorium period.

In closing, since 23 March this country has faced unprecedented hardship as a result of the stringent social distancing measures necessitated by the Covid-19 pandemic. As noble Lords are all aware, UK businesses have been hit hard as a result, with many unable to trade or facing a significant reduction in demand for their goods and services. Consequently, many otherwise viable companies face the threat of insolvency.

The Government are committed to doing all we can to support businesses during this challenging time to ensure that they can bounce back once the pandemic is over. The measures introduced by the Bill offer vital support alongside the substantial fiscal support packages for businesses and workers already in place. It is crucial that these measures are brought forward as a matter of urgency to protect those businesses. They will provide the flexibility and breathing space needed by businesses large and small to ensure their survival now and as the country emerges and rebuilds from this crisis.

Lord Fox: Could the Minister write to my noble friend Lady Barker on her question on mutuals?

Lord Callanan: Yes, of course. I would be very happy to do so.

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

House adjourned at 6.39 pm.