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PARLIAMENTARY DEBATES
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HOUSE OF LORDS
OFFICIAL REPORT

ORDER OF BUSINESS

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The following abbreviations are used to show a Member's 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

Wednesday 28 April 2021

The House met in a hybrid proceeding.

12 pm

Prayers—read by the Lord Bishop of Rochester.

Arrangement of Business

Announcement

12.06 pm

The Deputy Speaker (Lord Lexden) (Con): My Lords, the Hybrid Sitting of the House will now begin. Some Members are here in the Chamber while others are participating remotely, but all Members will be treated equally. I ask all Members to respect social distancing. If the capacity of the Chamber is exceeded, I will immediately adjourn the House. Oral Questions will now commence. I ask those asking supplementary questions to keep them to no longer than 30 seconds and confined to two points, and I ask that Ministers' answers are brief.

Northern Ireland: Citizens' Rights

Question

12.07 pm

Asked by ***Baroness Hoey***

To ask Her Majesty's Government what assessment they have made of the rights of Northern Ireland citizens in comparison with citizens of the rest of the United Kingdom.

Viscount Younger of Leckie (Con): My Lords, the United Kingdom is a family of nations and a union of people. The recognition and protection of rights are fundamental values of our union. That is reflected in the Government's unwavering commitment to the Belfast/Good Friday agreement, of which guarantees of rights are an essential part. The Government will take every opportunity to strengthen Northern Ireland's place within the UK and will continue to ensure that the rights of all Northern Ireland's people are protected within it.

Baroness Hoey (Non-Afl): My Lords, surely, one fundamental right that all United Kingdom citizens should enjoy in a democracy is being able to elect those who make the laws for the economy. The protocol, introduced without one single person in Northern Ireland agreeing to it, has now placed Northern Ireland in the outhouse of the United Kingdom family, with a foreign jurisdiction making the law and a foreign court overseeing it. Does the Minister recognise that the constitutional position of that part of the United Kingdom has changed utterly with the loss of that fundamental right?

Viscount Younger of Leckie (Con): My Lords, it is fair to say that urgent progress is needed to restore confidence on the ground and to address the outstanding protocol issues. However, I remind the noble Baroness that, as she will know only too well, Article 2 of the protocol states:

"The United Kingdom shall ensure that no diminution of rights, safeguards or equality of opportunity, as set out in that part of the 1998"—

Belfast/Good Friday—

"Agreement entitled Rights, Safeguards and Equality of Opportunity results from its withdrawal from the Union, including in the area of protection against discrimination".

Lord Lamont of Lerwick (Con): My Lords, if there is equality of rights between the citizens of Northern Ireland and the rest of the UK, how is it that in GB at a funeral, even a royal funeral, only 30 people are allowed to attend, whereas in Belfast, apparently, a funeral for an IRA/Sinn Féin supporter can be attended by over 1,000 people?

Viscount Younger of Leckie (Con): I certainly do not want to be drawn into answering on that particular thing. I simply reiterate that the Government take their obligations in regard to the rights of all United Kingdom citizens incredibly seriously. The Government are committed to the Belfast/Good Friday agreement, and the protocol does not impact on the constitutional arrangements within the United Kingdom or the provisions in that agreement.

Lord Foulkes of Cumnock (Lab Co-op): My Lords, does the Minister agree that any difference between the rights of citizens in Northern Ireland and those of the rest of us in the United Kingdom is one of the many results of the Brexit disaster, which Northern Ireland's people voted against? Who does the Minister think is most to blame for that: Boris Johnson, Arlene Foster—or the noble Baroness who tabled this Question?

Viscount Younger of Leckie (Con): I can only reiterate that we are urgently looking at addressing the issues on the ground. As the noble Lord will know only too well, much work is being done by my noble friend Lord Frost and Mr Sefcovic to address the outstanding issues to ensure that rights are equal between the citizens of Northern Ireland and those in the rest of the United Kingdom.

Baroness Suttie (LD) [V]: My Lords, the Belfast/Good Friday agreement enshrined many rights for the people of Northern Ireland but, following Brexit, there are fears that some of those rights are being diminished. Does the Minister agree that the British-Irish Council would be a useful forum to discuss these concerns? Can he confirm when he expects the next meeting of the council to take place?

Viscount Younger of Leckie (Con): I cannot confirm the actual date. I was drawn in on the BIIGC the other day and I understand the sentiments expressed by the

[Viscount Younger of Leckie]
noble Baroness, but I cannot give any further information. She will know that that we are aware of its potential operation.

Lord Caine (Con): Does my noble friend agree that a clear majority of people in Northern Ireland continues freely and legitimately to support the union on the basis of their

"cherished position of equal citizenship in the United Kingdom"?

Can he assure the House that this Government will always defend and uphold that fundamental position of equal citizenship for all the people of Northern Ireland against any threat, including in relation to the EU's implementation of the protocol?

Viscount Younger of Leckie (Con): I believe my noble friend makes the right emphasis. The Government firmly believe that UK nationality law is consistent with their Belfast agreement obligations and therefore with equal citizenship within the UK. The Government have always stressed the importance of the union and Northern Ireland's place within it. We share, as my noble friend will know, so many cultural, social and economic ties that make for greater prosperity and for security.

Lord Murphy of Torfaen (Lab) [V]: My Lords, there is much unease in Northern Ireland at the moment and the marching season will soon be upon us. Does the Minister agree that dialogue and intervention are now vital? Will he convey to the Prime Minister and the Secretary of State for Northern Ireland that their personal involvement is now absolutely necessary to stop any drift towards potential instability in Northern Ireland?

Viscount Younger of Leckie (Con): I can certainly pass the message upwards, to answer the noble Lord's question. I reassure him again that much work is going on, with intensive discussions between the co-chairs of the specialised committee, who have begun to clarify, work forward and address the outstanding issues. Some very good and positive momentum has been established. As I said earlier, these matters are urgent and must be addressed.

Lord Lilley (Con): Given that the anomalous position of Northern Ireland, spelt out by the noble Baroness, Lady Hoey, is justified by the need to uphold the integrity of the European single market, can my noble friend explain why it is necessary to have barriers to goods coming from GB towards the European single market, to uphold its integrity, but no barriers are necessary to uphold the integrity of the United Kingdom market? Is its argument simply bogus or bureaucratic obsession, or are we letting our internal market be put at risk?

Viscount Younger of Leckie (Con): I think it fair to say to my noble friend that we are going over old ground because of the agreements that have been set out on the unfettered access that is in place for goods that move from Northern Ireland to Great Britain. As he will know, some necessary minimum checks are required for certain goods going from Great Britain to Northern Ireland.

Lord Wigley (PC) [V]: My Lords, young people in Wales are very envious of the deal facilitated by the Irish Government, which enables young people from the North to maintain their full access to the huge benefits of the Erasmus+ programme. Does this not demonstrate that the best way for the people of Northern Ireland to retain links with the EU, for which they voted, is to work closely with Dublin wherever possible?

Viscount Younger of Leckie (Con): As the noble Lord is alluding to, the Irish Government have separately offered higher education students in Northern Ireland the chance to take part in Erasmus+. Institutions taking part will remain eligible for the Turing scheme, which, as he may know, will enable 35,000 students in higher education, further education and schools across the United Kingdom to go on overseas placements.

Lord Robathan (Con): My Lords, I spent the best part of a year of my life defending the position of the citizens of Northern Ireland, from whatever community, as equal citizens of the United Kingdom. The current situation is not acceptable. Will my noble friend go back to the Government and say that my noble friend Lord Frost, or whomsoever, must negotiate to amend, scrap or even ignore the protocol?

Viscount Younger of Leckie (Con): I do not agree with my noble friend on that point. The point is that the protocol has to work. As I said earlier, urgent progress is being made to address the outstanding concerns. The House will know that my noble friend Lord Frost will appear at the Dispatch Box tomorrow and I am sure that my noble friend will wish to put certain questions to him.

Lord Dodds of Duncairn (DUP): My Lords, is this not a classic case, as far as the protocol's application in Northern Ireland is concerned, of taxation without representation? How sustainable is it in the western developed world, in a modern democracy, for people to have laws imposed on them without any say or vote?

Viscount Younger of Leckie (Con): The noble Lord will know better than I do that in terms of consent, ultimately the protocol's fate depends on the political representatives of the people of Northern Ireland. The Assembly will next vote on the protocol in 2024, as agreed in the protocol itself.

Lord Moylan (Con): My Lords, the effect of the Northern Ireland Protocol is that any amendment made by the EU to an EU law currently in forced in Northern Ireland has direct effect, with no approval needed by the UK Parliament or by the Northern Ireland Assembly, and will be immediately justiciable in the relevant court in the UK. Will my noble friend consider again if this situation of the people of Northern Ireland is compatible with Article 3 of the first Protocol

to the European Convention on Human Rights, which grants an unabridgeable right to free, secret and regular elections to a relevant legislature?

Viscount Younger of Leckie (Con): My noble friend is right that any solution in Northern Ireland should have democratic support, which ties in slightly to the previous question from the noble Lord, Lord Dodds. That is why Northern Ireland's elected representatives have a democratic choice. The Assembly can extend or end Northern Ireland's alignment with EU law with the first consent decision, as I said earlier, at the end of 2024. This process will repeat every four or eight years, depending on whether consent, if given, is given on a simple majority or a cross-community basis.

The Deputy Speaker (Lord Lexden) (Con): My Lords, all supplementary questions have been asked and we now move to the next Question.

Zimbabwe: Human Rights

Question

12.18 pm

Asked by ***Baroness Ritchie of Downpatrick***

To ask Her Majesty's Government what is their latest assessment of the political situation in Zimbabwe as regards human rights.

Lord Parkinson of Whitley Bay (Con): My Lords, we remain concerned by the current situation in Zimbabwe, particularly human rights violations. We have been clear that the Government of Zimbabwe must meet their international and domestic obligations by respecting the rule of law, safeguarding human rights and committing to genuine political and economic reform for the benefit of all Zimbabweans. On 1 February, the UK announced sanctions to hold to account individuals responsible for the most egregious human rights violations in Zimbabwe.

Baroness Ritchie of Downpatrick (Non-Afl) [V]: My Lords, in the light of the deepening economic and political crisis, which has had direct impact on local communities throughout Zimbabwe, will the Minister go a little further and outline in clear, concrete terms what recent assessment the UK Government have made of the treatment of political prisoners and critics of the Government in Zimbabwe, and what action the Government will take, working with the international community, to address the problems in that country?

Lord Parkinson of Whitley Bay (Con): My Lords, we remain seriously concerned by the harsh tactics of the Government of Zimbabwe and their treatment of their critics. The Minister for Africa and our embassy in Harare regularly call out the Government and urge them to live up to their own constitution and uphold basic human rights. We also continue to work with our international partners, including South Africa, to examine what more can be done to put pressure on the regime.

Baroness Quin (Lab): My Lords, Zimbabwe has recently been reported as pursuing its application to rejoin the Commonwealth. Given that belonging to the Commonwealth involves a commitment to free and fair elections, protection of human rights, freedom of expression and equality of opportunity, is it not the case that the recent arrest and treatment of women activists seem to fall far short of Commonwealth standards?

Lord Parkinson of Whitley Bay (Con): The decision on whether Zimbabwe can rejoin the Commonwealth is one for all Commonwealth members. However, we are absolutely clear that the UK would support Zimbabwe's readmission only if it met the admission requirements and complied with the values and principles set out in the Commonwealth charter. Zimbabwe's recent actions, including those that the noble Baroness mentioned, do not live up to those standards.

The Lord Bishop of Rochester: My Lords, my diocese has a close and long-standing friendship with the diocese of Harare. When I asked friends there about this subject, they spoke of those human rights activists and others who allege mistreatment when taken into custody, and then nothing is done to address their allegations. Is the Minister able to suggest how we might better underline and, indeed, demonstrate that allowing dissent is good for the health of a society, to be encouraged rather than met with suppression or even violence? This is something that, of course, has a wider application than just to Zimbabwe.

Lord Parkinson of Whitley Bay (Con): The right reverend Prelate is absolutely to make the point about lawful dissent in a democracy. We are aware of reports of mistreatment of activists in Zimbabwe. On 29 March, my honourable friend the Minister for Africa publicly called on the Zimbabwean Government to end the harassment of political opponents, and we have been clear that Zimbabwe should guarantee the right to freedom of speech which is enshrined in its own constitution.

Lord Kirkhope of Harrogate (Con) [V]: My Lords, alongside justifiable concerns about its human rights record, bearing in mind some recent disturbing reports of forced labour in Zimbabwe in the Marange diamond fields, does my noble friend think that the Government should follow the lead of the United States of America in prohibiting any imports from Zimbabwe where evidence of forced labour has been established?

Lord Parkinson of Whitley Bay (Con): We are aware of the reports of forced labour in diamond mines and the tobacco industry and continue to follow closely concerns over the involvement of children, particularly in mining. We currently support efforts by Zimbabwean civil society organisations to try to ensure that communities benefit from, and are not harmed by, mining activities.

Lord Chidgey (LD) [V]: My Lords, there are disturbing reports from Zimbabwe that food aid intended for the poor and needy is commandeered by government agents,

[LORD CHIDGEY]
while individuals subject to the UK sanctions which the Minister mentioned are unaffected by these measures. Opposition to the Government, from the MDC and others, continues to be violently suppressed; party offices have been broken into and membership records stolen, allowing homes to be visited at night and members and their families severely beaten. Beyond the sanctions programme, what progress have the Government made in discussions with neighbouring Commonwealth countries, including South Africa, to avoid Zimbabwe falling back into the worst traits of the Mugabe regime?

Lord Parkinson of Whitley Bay (Con): We provide aid to Zimbabwe to support the people of that country. We stand by them and our sanctions send a powerful message that we will not shy away from holding to account those who commit human rights abuses. Sanctions are just one part of our approach which, working with our international partners, as the noble Lord said, is aimed at encouraging the Government of Zimbabwe to fulfil its own commitments to fundamental political and economic reform.

Baroness Warsi (Con) [V]: My Lords, what representations have the Government made to the Government of Zimbabwe on the detention and treatment of female parliamentarians, specifically in relation to the reports of sexual violence against them in custody? What specific work are we doing in relation to sexual violence in conflict, which is something that the UK leads on, as my noble friend is aware?

Lord Parkinson of Whitley Bay (Con): As I said, we are concerned by the unacceptable pattern of arrests and intimidation of opposition and civil society figures, particularly women. The recent cases of MDC activists and an MP, Joanah Mamombe, are particularly pertinent in that regard. On 29 March, my noble friend the Minister for Africa publicly called on the Zimbabwean Government to end the harassment of political opponents—so we are taking action, as my noble friend suggested.

Lord St John of Bletso (CB) [V]: My Lords, the proposed patriotic Bill being initiated by the Zimbabwe Government would effectively make it illegal to criticise President Mnangagwa and forbid any member of the opposition from speaking to any foreign body or politician. With Zimbabwe currently applying to rejoin the Commonwealth, what measures can we, and other members of the Commonwealth, take to resist this draconian measure?

Lord Parkinson of Whitley Bay (Con): We are aware of the proposed Bill that the noble Lord mentioned and have been clear with the Zimbabwean Government that any legislation which restricts democratic principles or freedom of speech is not in line with Zimbabwe's own constitution, nor with the promises of political reform which President Mnangagwa made when he came to power. As I have said, readmission to the Commonwealth is a matter for all Commonwealth member states, but we have been clear that Zimbabwe's actions do not live up to the standards set out in the charter.

Lord Collins of Highbury (Lab): My Lords, I return to the women activists, to which the noble Baroness, Lady Warsi, drew particular attention. My late and respected noble friend Lord Judd put down a Written Question on the case of Joanah Mamombe, which the Minister mentioned. My noble friend Lord Hain also wrote to the Foreign Secretary about this case yesterday. She has now been charged with faking her own abduction. She is being treated appallingly in prison and she has a severe medical condition. The Minister mentioned specific sanctions; can he assure the House that these will be extended and will involve all the people who are committing these terrible human rights abuses, so that we hold them properly to account?

Lord Parkinson of Whitley Bay (Con): As I said, we remain concerned about the failure to address the allegations of abduction and abuse made by the three MDC Alliance members which the noble Lord raised. We continue to call for investigations into these allegations and we have regularly raised our concerns about them with the Government of Zimbabwe. I am sure that the noble Lord will understand that I cannot speculate on future sanctions, as doing so would reduce the impact of potential designations.

Lord Oates (LD) [V]: Does the Minister agree that the continued detention of MDC MP Joanah Mamombe and activist Cecilia Chimbiri, whose bail hearing judgment was deferred in Harare just this morning until Friday, is just a further example of the politicisation of the courts, the violation of human rights and the closing down of free expression in Zimbabwe? This includes the patriotic Bill. Will the Government summon the Zimbabwe ambassador and impress on him that, until freedom of expression, the rule of law and upholding of human rights are restored, there is no prospect of the normalisation of relations between our two countries?

Lord Parkinson of Whitley Bay (Con): I know that the noble Lord takes a keen interest in Zimbabwe, as co-chairman of the All-Party Group for Zimbabwe, and that he has written to my honourable friend on this case. As I said, we are concerned at the failure to address these concerning allegations and we continue to call for an investigation into them. We continue to raise our concerns directly with the Government of Zimbabwe and in public, as my honourable friend the Minister for Africa has done.

The Deputy Speaker (Lord Lexden) (Con): My Lords, the time allowed for this Question has now elapsed.

Care Home Occupancy Rate

Question

12.28 pm

Asked by ***Baroness Greengross***

To ask Her Majesty's Government what assessment they have made of the care home occupancy rate.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Bethell) (Con): My Lords, occupancy levels are hard to measure precisely. However, data from providers indicate that occupancy rates in care homes for older people have been adversely affected by the pandemic. We have made over £6 billion available, through grants that are not ring-fenced, to help councils tackle the impact of Covid-19 on services, including adult social care. We have made it clear to councils that this funding can be used to help offset the impact of temporary reductions in occupancy.

Baroness Greengross (CB) [V]: My Lords, I thank the Minister for that Answer. The Alzheimer's Society is reporting that because of care home deaths and restrictions on visits during the pandemic, some families have had to defer placing their loved ones into care homes. Given this, how will the Government support the sector to ensure that occupancy rates rise again, other than by what he just said? How will this be monitored, given that I recently received an Answer to a Written Question that said the occupancy rates in care homes were not held by central government?

Lord Bethell (Con): My Lords, I note the intelligence from the Alzheimer's Society, but I emphasise it is not the responsibility of central government to raise the occupancy rates of care homes. This area is supplied mainly by the private market. Players may choose to leave the market if occupancy rates fall, and local councils have been provided with more than £6 billion that should be drawn on to support the sector.

Baroness Fox of Buckley (Non-Afl): My Lords, a number of unpaid at-home carers have told me that even though their relatives in dire need of care home residency have been offered places, they have turned them down because of heavily restricted family visits, the invidious 14-day quarantine rule and restrictions even on taking doubly vaccinated relatives for a walk in the spring sunshine. Will the Minister acknowledge that moving to a care home can be distressing, and depriving new residents of family support when settling in will inevitably impact on occupancy? When families liken taking up occupancy to sending relatives to prison, surely it is time to review guidance using today's data, rather than as though Covid were still rampant and vaccines ineffective.

Lord Bethell (Con): The noble Baroness makes a perfectly fair point. Moving into a care home is a difficult and potentially stressful experience. Moving in at a time of Covid, when, as the noble Baroness rightly points out, there are heavy restrictions, is very difficult. Those restrictions are in place to save lives. They are under constant review, and when the infection rates warrant leaving them behind, we will make that decision.

Baroness Altmann (Con): Will my noble friend join me in commending the excellent work of care staff during the appalling problems that have arisen over the past year during the pandemic? Will the Government urgently investigate the financial stability and debt levels of care home operators, which, too frequently, seem to have no controls on the amount of leverage, excessive debts or lack of equity in the sector?

Lord Bethell (Con): My Lords, I absolutely join my noble friend in commending the incredible contribution of care home staff, domiciliary staff, unpaid care workers and all those who support loved ones, neighbours and residents. The Covid pandemic has shone a light on the selfless contribution of those people. The service continuity and care market review keeps a careful eye on the financial stability of the market. We are in constant contact with some of the biggest providers. The scene we see at the moment is not one that causes a huge amount of concern, but we keep close to the market.

Baroness Watkins of Tavistock (CB): My Lords, I declare my interests as outlined in the register in relation to the Outcomes First Group quality committee. Can the Minister explain how he will ensure that the Government work with the Care Quality Commission to see how we can deliver a strategy that promotes care home financial stability so that there are sufficient beds available this winter to enable the NHS to deliver suitable care for those on waiting lists, without older people having to go into hospital unnecessarily?

Lord Bethell (Con): The noble Baroness makes a good point. There is always a tension in having enough beds in care so that those who need somewhere to be supported are not sent to hospital, thereby occupying valuable beds that should be used for elective surgery or other more complex and important procedures. We are working closely with the CQC to ensure that the right strategies are in place to deal with that.

Baroness Wheeler (Lab): The Minister knows we have continually raised our strong concerns about the financial stability of care homes. Now, the possibility of increased closures due to falling occupancy rates and the extra costs stemming from the pandemic have exacerbated the precarious situation the sector is in. With the downward trend in the registration of new care homes and the upward trend in closures, is not the resulting net reduction in the number of beds available deeply worrying at a time of known growth in the need for social care provision for older people? Can the Minister reassure the House that in the Queen's Speech we will, at last, find out about the Prime Minister's plans for how he is going to fix all this and what is going to be done to deliver long-term funding and sustainability for the social care sector?

Lord Bethell (Con): My Lords, I have heard the noble Baroness and others express their concerns about the sector, but I reassure noble Lords that it is not in overall long-term decline. In fact, the number of care home beds has remained broadly constant over the last 10 years, with 460,000 in 2010 and 458,000 in April 2021. But I recognise the noble Baroness's question, and it is right that we are going to bring forward recommendations for social care reform by the end of the year.

Baroness Tyler of Enfield (LD) [V]: My Lords, a recent National Audit Office report highlighted how the Covid pandemic has adversely impacted the financial viability of care home providers, with occupancy rates falling significantly, as we have heard. Given this, could the Minister say what steps the Government are taking to ensure that the much-needed financial support he has referred to, to stabilise this highly fragmented and fragile sector, gets to the front line and that there is equal treatment for all care home services, irrespective of whether they are local authority-funded or NHS-funded or whether residents are older people, younger adults of privately paying residents?

Lord Bethell (Con): My Lords, we have written to local authorities to make it clear what the funding is there for and to make recommendations on the sort of financial support that may be needed to bridge this moment when occupancy levels have been reduced because of concerned families taking their loved ones out of care homes. That funding is in place, and it is up to local authorities to make their decisions on the matter.

Baroness McIntosh of Pickering (Con): My Lords, what has the impact of the pandemic been on those who choose to receive care in their own homes? With the rise of closures of private care homes and fewer public sector beds being available, have we got the balance in provision right?

Lord Bethell (Con): My Lords, there is an important area of support for those who decide to have care at home. During the pandemic, we did an enormous amount to ensure that there were infection-safe procedures and to reduce the use of itinerant care workers in order to provide safety for those who were at home. Support for those who choose to be cared for at home should be increased. I do not recognise the idea that the number of beds in local authority care has reduced so far, but I am happy to look into the matter.

Lord Mann (Non-Afl): NHS England and Public Health England's contingency planning for pandemics was strengthened after the SARS epidemic. Will the Minister put in the Library the minutes and documents that show what the NHS policy was in January 2020 on the transfer of people between care homes and hospitals and between hospitals and care homes during a pandemic?

Lord Bethell (Con): My Lords, NHS minutes are published as a routine matter, of course. I would be happy to write to the noble Lord with a link to the right minutes.

Baroness Jolly (LD) [V]: Given the reluctance, post pandemic, to going into care homes, one would expect more vulnerable people to require support at home, and this is delivered in part using local authority funding. What advice is being given to the sector by Her Majesty's Government, and what measures are being taken to ensure that this need can be met?

Lord Bethell (Con): My Lords, as I mentioned earlier, DHSE has written to local authorities explaining how we recommend some of the unring-fenced £6 billion could be spent to support both those in social care residential situations and those at home. That is the correct mechanic for guiding the spending of the money, but it is the responsibility of local authorities, not of central government, to provide the support that the noble Baroness describes.

The Deputy Speaker (Lord Lexden) (Con): My Lords, the time allowed for this Question has now elapsed. We now come to the fourth Oral Question.

Northern Ireland: Flight Passengers and Covid-19

Question

12.40 pm

Asked by ***Lord Dodds of Duncairn***

To ask Her Majesty's Government what steps they will take to ensure that the necessary information about flight passengers who are crossing the border into Northern Ireland from outside the United Kingdom is shared with the Northern Ireland health authorities in order to prevent the spread of COVID-19.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Bethell) (Con): My Lords, coronavirus restrictions, including the arrival of international travellers, are led by the Northern Ireland Executive. I am extremely grateful to the Northern Ireland Minister of Health who is working closely with his counterpart in the Irish Government to facilitate the sharing of data for international travellers travelling across the border. The Government continue to support ongoing co-ordination between the UK Government, the Northern Ireland Executive and the Irish Government as part of our collective ambition to drive the virus down.

Lord Dodds of Duncairn (DUP): My Lords, I am grateful to the Minister for his reply. The common travel area is a very positive feature of life between the United Kingdom and the Irish Republic and has been so for many decades, predating our EU membership. Yet there remain serious problems with the Irish Republic carrying out the necessary urgent work needed to allow the sharing of information from Irish passenger locator forms for those transiting to Northern Ireland and to the rest of the United Kingdom. This delay is increasing the risk of the spread of Covid, especially variants coming into Northern Ireland and the UK. The Northern Ireland Health Minister that the noble Lord referred to expressed serious concerns as late as last week, in evidence to the Northern Ireland Assembly, about the dragging of feet. It has been flagged for many months. Will the Minister please raise this at the highest levels of the UK Government and ensure that action is taken to close this problem off?

Lord Bethell (Con): My Lords, I recognise the challenge to which the noble Lord refers. It is, of course, a fact that coronavirus restrictions in Northern Ireland are determined by the Northern Ireland Executive as part of the devolution settlement, as I am sure he would recognise. The Secretary of State for Northern Ireland has raised the issue with the Irish Foreign Minister on a number of occasions to press for a resolution, and while the UK Government continue to work closely with the Executive to drive this virus down, we respect that healthcare is a devolved matter. This is a complex issue to resolve, but we are extremely grateful to all parties who are working hard to resolve it.

Baroness Thornton (Lab): My Lords, the truth is that the Northern Ireland Health Minister, Robin Swann, found out that there were cases of the Indian variant of the virus in the Republic of Ireland only from media reports. This is deeply concerning, as was raised by the noble Lord, Lord Dodds. Northern Ireland is part of the UK, so we have the same responsibilities to our fellow citizens in Northern Ireland and therefore it is very concerning. Is the Minister confident that, going forward, mutually beneficial data-sharing processes are in place to ensure that new variants are controlled and do not become seeded and spread in any of our communities?

Lord Bethell (Con): My Lords, I am enormously grateful to the Irish Government for the very large amount of informal clinical data-sharing that goes on. CMOs of both countries exchange data on such matters as VOCs the whole time, and that kind of day-to-day clinical exchange of on-the-ground information works extremely well. The specific question of travel information is a lacuna that needs to be closed, I recognise that it needs to be shut, a lot of work is going on to shut it and I am grateful to those involved.

Baroness Brinton (LD) [V]: My Lords, I think noble Lords understand that there have to be special arrangements, and the common travel area seems to work well for most things. The Minister knows that I have asked him repeatedly about the joining up of data of international travellers between whichever border they arrive at, the NHS and the testing system, especially the private testing system, otherwise any self-isolation system will fail. Can the Minister say whether this gap that there was before has now been remedied, so that every part of the NHS can pick up data information from borders, and how it works across all four UK countries? Will he explain a bit more about the CTA arrangements between Westminster, Stormont and the Republic?

Lord Bethell (Con): I reassure the noble Baroness that the data flows between borders, Test and Trace, NHS and JBC work extremely well. I was in the Covid Gold meeting earlier today and we had presentations that captured all the data flows from all those places, and we have extremely good see-through on VOCs, infection rates and bed occupancy. The progress we have made on that area is astounding. Where we have a lacuna is on the transfer of data from Irish travellers to Northern Ireland, and that is something we are working to close.

Baroness Hoey (Non-Afl): My Lords, I share the concerns expressed by the noble Lord, Lord Dodds, and others about data sharing between Northern Ireland and the Republic of Ireland. Will the Health Minister use this opportunity to praise the vaccination programme in Northern Ireland and all those who have made it so successful, from the Health Minister, through the GP surgeries to the many volunteers who have made it so successful? Does this success in Northern Ireland not show how important the union is, and also how important it was that we left the European Union and did not have its regulations on vaccination, as the Republic of Ireland has had?

Lord Bethell (Con): I am pleased to tell the noble Baroness that, as of 27 April, 1.2 million vaccinations have been administered in Northern Ireland, of which 919,000 were first doses and 356,000 were second doses. That is an astonishing figure. I am extremely proud of the figure and very grateful to all those concerned.

Lord McNally (LD): My Lords, I am pleased that the final Question in Question Time today gives us the opportunity to say something about the importance of co-operation between the Irish Republic and the United Kingdom. It is worrying that there is this lacuna; I wonder whether the expertise of the CAA is being brought to bear on it. Are there any problems because we have not yet got digital adequacy with the EU? Is that part of the lacuna? On the broader side, this Question and the earlier Question show that there is a need for a rapid response unit to deal with the genuine problems in the relationship between the Republic and Northern Ireland, and the inevitable consequences of the Brexit decision, which was facilitated by the DUP.

Lord Bethell (Con): My Lords, I reassure the noble Lord that the issue is caused by no lack of friendship or spirit of collaboration between the two Administrations. The CAA and all the relevant authorities have a huge amount of commitment to resolving this. There are legal issues that require Acts of Parliament in Ireland and in Britain in order to resolve this; these are quite substantial legal commitments that need to be timetabled and conducted through Parliament, and that is what is holding things up. I am very grateful to all those who are trying to resolve the issue.

The Deputy Speaker (Lord Lexden) (Con): My Lords, all supplementary questions have now been asked, and that concludes today's Oral Questions.

Arrangement of Business

Announcement

12.48 pm

Lord Ashton of Hyde (Con): My Lords, I thought it might be helpful to the House if I made a short statement about the arrangement of business today. First, on the Fire Safety Bill, noble Lords will know that the House returned the Bill to the Commons

[Lord Ashton of Hyde]
again last night. We fully expect it to send the Bill back to us today for further consideration. If it does, we will consider that message tonight after the proceedings on the Overseas Operations (Service Personnel and Veterans) Bill, as outlined in today's list.

The Bill is unlikely to arrive back before 2 pm and the window for noble Lords to table Motions or amendments is expected to be open between 3 pm and 4 pm. I urge those noble Lords with an interest in the Bill to keep an eye on the annunciator for any updates and to consult the Legislation Office at the earliest opportunity should they need further information.

Secondly, on the National Security and Investment Bill, we are due to consider a Commons Reason at a convenient point after 1.30 pm. If, after that debate, there is still no agreement on the one remaining issue, the Bill will return to the Commons and it will consider it again today. If the Bill is then returned to us, we will consider that message tonight. I will need to keep the House updated on timings, but any further debate on the Bill in this House will not start before 9 pm.

12.50 pm

Sitting suspended.

Nazanin Zaghari-Ratcliffe

Private Notice Question

1 pm

Asked by ***Lord Collins of Highbury***

To ask Her Majesty's Government what is their response to reports of the sentencing of Nazanin Zaghari-Ratcliffe in Iran.

Lord Parkinson of Whitley Bay (Con): Iran's decision to sentence Nazanin Zaghari-Ratcliffe on further charges is totally inhumane and wholly unjustified. Her Majesty's Government remain committed to doing all we can to secure Mrs Zaghari-Ratcliffe's return home. Iran has deliberately put her through a cruel and inhumane ordeal. We continue to call on Iran in the strongest possible terms to end her suffering and allow her to return home to be reunited with her daughter Gabriella and husband Richard.

Lord Collins of Highbury (Lab): My Lords, our thoughts must first go to Nazanin, her daughter, her husband and the rest of the family. To be given a further one-year sentence on a trumped-up charge of promoting propaganda against the system and to be found guilty after a sham trial is truly appalling news.

Yesterday the Minister, James Cleverly, said that we are co-operating

"with our international partners on a whole range of issues with regard to Iran, including the United States of America and the E3".—[*Official Report*, Commons, 27/4/21; col. 239.]

Can the Minister tell us what further actions the United Kingdom will consider with our allies to get Nazanin home to the United Kingdom and the other dual nationals in detention released?

Lord Parkinson of Whitley Bay (Con): The noble Lord is right: our thoughts first and foremost go out to Mrs Zaghari-Ratcliffe and her family for this latest development. We have been very clear that Iran's decision is totally inhumane and wholly unjustified. He is right that my right honourable friend the Minister, James Cleverly, yesterday outlined some of the action we are taking to hold Iran to account for its poor human rights record—for instance, strongly supporting the renewal mandate of the UN special rapporteur on the situation of human rights in Iran at the Human Rights Council in March this year and joining the Canadian initiative against arbitrary detention in February. However, this is on Iran: it can do the right thing and return Mrs Zaghari-Ratcliffe and other dual nationals home to be reunited with their families.

Baroness Northover (LD): My Lords, I too express my sympathy to Nazanin and her family. Two more European dual nationals are being tried today—one German, one British. The German authorities have said that they will seek to attend the mock trial in the revolutionary courts. Is the United Kingdom doing the same for our citizen? What came across yesterday in the Commons was words but not actions.

Lord Parkinson of Whitley Bay (Con): I cannot speak for the actions of other Governments and the activity they are undertaking. We have requested access to the hearings, as we have for previous hearings, but Iran routinely denies us access to them because it does not recognise Mrs Zaghari-Ratcliffe as a dual national. We will continue to seek to attend any future hearings. We have been consistently clear that she must not be returned to prison; she should be returned to the United Kingdom to be reunited with her family.

Lord Green of Deddington (CB) [V]: My Lords, this is a very difficult case, but I wonder about our approach to it. The Minister will recall the case of the British hostages in Lebanon held by groups connected to the Iranians. As it happens, I dealt with those cases, both in London and later in Damascus. Our strategy at that time was to refuse to negotiate and to keep the public profile down so as not to add to the perceived value of the hostages. That approach eventually worked. I realise that the conditions are not the same, but will the Minister now review the present case in light of this previous experience?

Lord Parkinson of Whitley Bay (Con): The noble Lord speaks with authority as a former ambassador to Syria. We do not accept dual British nationals being used as diplomatic leverage. Iran is responsible for putting Mrs Zaghari-Ratcliffe and other dual nationals, such as Anoosheh Ashoori and Morad Tahbaz, through this intolerable ordeal, and it remains on Iran to release them to allow them to be reunited with their families. We have called on the Iranian Government to release all those dual nationals who have been arbitrarily detained, and we remain committed to ensuring that we do what we can to secure their release.

The Lord Bishop of Rochester: My Lords, the ordeals of Nazanin Zaghari-Ratcliffe go from bad to worse. These Benches assure her and her family of our continued prayers. As many have made clear, including in the other place powerfully yesterday, she is caught up in political machinations not of her own making. As well as urging Her Majesty's Government to do everything possible to deal with outstanding issues which may be being used to justify her continued punishment, does the Minister think that the engagement of religious groups here—Muslim and Christian—might offer any way forward, or would that be counterproductive?

Lord Parkinson of Whitley Bay (Con): I am sure that the prayers of many people are with those of the right reverend Prelate about Mrs Zaghari-Ratcliffe and her situation. My right honourable friend the Foreign Secretary has made clear that this is a totally inhumane and wholly unjustified decision. We are in contact with a range of international partners who share our deep concerns about the ongoing detention of British dual nationals, religious groups and others, but it remains in Iran's gift to do the right thing and allow them to come home and be reunited with their families.

Baroness Blackstone (Ind Lab): My Lords, over five years the Government have not secured the release of Nazanin Zaghari-Ratcliffe. This can be described only as a diplomatic failure, leading to yet another jail sentence by a cruel and inhumane Iranian judicial system. Can the House be given a clear and complete explanation of why the Government have not found a way of paying off the UK's debt for undelivered military equipment to Iran, which could well secure the release of this innocent victim?

Lord Parkinson of Whitley Bay (Con): My Lords, it is unhelpful to connect wider bilateral issues with the arbitrary detention of people in Iran. It remains in Iran's gift to do the right thing and return them home. The whole of Her Majesty's Government, from the Prime Minister down, have been engaged on this. The Prime Minister has raised this directly with President Rouhani, most recently on 10 March, and the Foreign Secretary last did so with his counterpart, Foreign Minister Zarif, on 3 April. The action we have taken so far, such as granting diplomatic status to Mrs Zaghari-Ratcliffe, has helped in previous stages, but we continue to do all we can to try to secure her return home to the United Kingdom.

Lord Austin of Dudley (Non-Afl): My Lords, the people responsible for Nazanin Zaghari-Ratcliffe's incarceration are clearly this brutal dictatorship, which treats women appallingly, kidnaps innocent British citizens, persecutes gay people, executes dissidents, supports terrorists across the Middle East, and threatens to wipe Israel—the region's only democracy—off the planet. It is clearly impossible to trust this brutal and corrupt regime. We must do everything possible to prevent it developing nuclear weapons. Western democracies should impose much tougher sanctions on the leadership, and the revolutionary guard which kidnapped this poor woman should be proscribed.

Lord Parkinson of Whitley Bay (Con): My Lords, we have long been clear about our concerns over Iran's continued destabilising activity throughout the region, including its political, financial and military support to a number of militant and proscribed groups. The noble Lord raised points about nuclear; the UK remains committed to making the Iran nuclear deal a success, and Iran must stop all its nuclear activity which breaches the terms of the JCPOA and come back into compliance. On sanctions, we take a robust stance against Iranian human rights violations, and we have already sanctioned 82 individuals and one entity.

Lord Campbell of Pittenweem (LD): My Lords, is it not the harsh truth that we have been on the back foot since the clumsy and inexcusable intervention by the Prime Minister? There is a logjam here, and it has to be broken if we are to preserve the health of the prisoners. If that means paying the disputed money, so be it.

Lord Parkinson of Whitley Bay (Con): My Lords, the UK Government from the Prime Minister down are committed to doing everything we can for Mrs Zaghari-Ratcliffe and her family, and we are determined to see her reunited with her family in the UK. We raise her case, and those of other British dual nationals, with the Iranian Government at every opportunity, and continue to call for their immediate and permanent release. As I have said, we do not think it helpful to conflate this with other bilateral issues.

Baroness Bennett of Manor Castle (GP) [V]: My Lords, following on from the Minister's answer to the noble Baroness, Lady Northover, can he tell me why the German Government are apparently being treated differently—better treated, in terms of access to trials for dual nationals—than the UK Government?

Lord Parkinson of Whitley Bay (Con): As I have said, I cannot speak for the experience of the German Government; I can only be clear that at every opportunity we press for access to the judicial hearings, but the Iranian Government do not grant us that access, because they do not recognise Mrs Zaghari-Ratcliffe as a dual national.

Lord Walney (Non-Afl): My Lords, is there not a real risk here that we absolve the Iranian regime of their full responsibility for this fiasco? Does not the appalling and obvious way in which Iran is manipulating its judicial system to torment Mrs Zaghari-Ratcliffe and extort money from the British Government underline the fact that the word of this terror-exporting regime simply cannot be trusted on a whole host of other matters, including, of course, their misuse of nuclear power?

Lord Parkinson of Whitley Bay (Con): The noble Lord is right: the responsibility for this lies squarely with the Iranian Government. It is on them. They could do the right thing and release Mrs Zaghari-Ratcliffe and allow her to come home and be reunited with her

[Lord Parkinson of Whitley Bay]
family. We continue to call on Iran in the strongest possible terms to end her suffering and allow her to return home.

The Deputy Speaker (Lord Duncan of Springbank) (Con): My Lords, all supplementary questions have been asked.

1.11 pm

Sitting suspended.

Highgate Cemetery Bill
Motion to Agree

1.15 pm

Moved by ***The Chairman of Committees***

That the Commons message of 26 April be now considered; and that the promoters of the Highgate Cemetery Bill which was originally introduced in this House on 22 January 2020 should have leave to suspend any further proceedings on the bill in order to proceed with it, if they think fit, in the next session of Parliament according to the provisions of Private Business Standing Order 150A *(Suspension of bills)*.

Motion agreed.

Monken Hadley Common Bill
Motion to Agree

1.15 pm

Moved by ***The Chairman of Committees***

That this House do agree with the orders made by the Commons set out in their message of 26 April.

Motion agreed.

Whiplash Injury Regulations 2021

Civil Liability Act 2018 (Financial Conduct Authority) (Whiplash) Regulations 2021

International Accounting Standards (Delegation of Functions) (EU Exit) Regulations 2021

Employment Rights Act 1996 (Protection from Detriment in Health and Safety Cases) (Amendment) Order 2021

Money Laundering and Terrorist Financing (Amendment) (High-Risk Countries) Regulations 2021
Motions to Approve

1.16 pm

Moved by ***The Earl of Courtown***

That the draft Regulations and Order laid before the House on 1 and 25 February and 17, 18 and 25 March be approved.

Relevant documents: 46th, 49th and 51st Reports from the Secondary Legislation Scrutiny Committee (special attention drawn to the first instrument). Considered in Grand Committee on 26 and 27 April.

Motions agreed.

Prisons (Substance Testing) Bill
Third Reading

1.17pm

Motion

Moved by ***Baroness Pidding***

That the Bill do now pass.

Baroness Pidding (Con): My Lords, in moving this motion I wish to make a few brief comments. First of all, I pay tribute to my right honourable friend Dame Cheryl Gillan, who introduced this Bill in the other place and, sadly, passed away earlier this month. Dame Cheryl had an exemplary political career, and established friendships across the political divide. She was a persistent champion of a number of truly important causes. She successfully brought the Autism Act 2009 into law, via a Private Member's Bill. It is an honour to move the Prisons (Substance Testing) Bill one step closer to reaching the statute book. We hope that it will stand as further testimony to Dame Cheryl's contributions to society and Parliament. I am grateful to Richard Holden, who brought this Bill forward on her behalf in the other place when she was unable to attend Parliament. I also thank colleagues across the House who participated in the Bill's progress, both for their interest and for their contributions. I also pay tribute to the Parliamentary Under-Secretary of State, the noble Lord, Lord Wolfson of Tredegar, for his support through the Bill's passage, and also the officials at the Ministry of Justice for their help. I beg to move.

Bill passed.

Botulinum Toxin and Cosmetic Fillers (Children) Bill
Third Reading

1.19 pm

Motion

Moved by ***Baroness Wyld***

That the Bill do now pass.

Baroness Wyld (Con): My Lords, in moving this motion I briefly pay tribute to my honourable friend Laura Trott MP, who steered this Bill with such passion through the other place, aided by all the brave and persistent campaigners who have worked so hard. As we said at Second Reading, a huge amount of spadework was needed to bring the Bill to this point—not least by

my noble friend Lord Lansley, who I am delighted to say is sitting beside me today. I also pay tribute to my noble friend the Minister, to the Bill team, and to noble Lords across the House on all Benches, who were incredibly supportive. It has been a real honour to bring this Bill to this stage.

Bill passed.

Education (Guidance about Costs of School Uniforms) Bill

Third Reading

1.20 pm

Motion

Moved by ***Baroness Lister of Burtersett***

That the Bill do now pass.

Baroness Lister of Burtersett (Lab) [V]: My Lords, I put on record my thanks to my honourable friend the Member for Weaver Vale, Mike Amesbury, for introducing and skilfully piloting the Bill through the other place. I thank all noble Lords from across the House who gave it such strong support, regardless of their views on the merits of school uniform or on the level of parliamentary scrutiny of the draft statutory guidance. My thanks go to Ministers in the Department for Education, Nick Gibb and the noble Baroness, Lady Berridge, for their support and assistance throughout the Bill's passage, and to Ben Burgess of the Government Whips Office, who has been unfailingly helpful to this Private Member's Bill novice. I also thank the Children's Society, especially Hannah Small. It has worked hard for the Bill to become law. In doing so, it has been spurred on by the children and young people who sat on the society's Children's Commission on Poverty, and subsequently by the children and parents with whom they work. I pay tribute to them all.

It has been a privilege to sponsor the Bill through your Lordships' House. Just the other day I received a report on school uniform costs from the Covid Realities research project. It quoted a lone mother:

> "It's been nothing but worry. I'm anxious and financially broke, paying £310 for school uniform. When I only receive £556 a month."

I hope that, thanks to this modest Bill, low-income parents will no longer have to suffer such anxiety over the cost of uniforms. I hope too, therefore, that the Bill will be implemented as quickly as is reasonable.

Bill passed.

Animal Welfare (Sentencing) Bill

Third Reading

1.22 pm

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Gardiner of Kimble) (Con): My Lords, before my noble friend Lord Randall of Uxbridge proceeds with the Bill, I will make a very brief statement about legislative consent. The Bill, which increases the maximum custodial penalty for the worst acts of animal cruelty, has enjoyed cross-party support in both Houses. It would bring both England and Wales into line with the existing sentencing regimes for animal cruelty offences in Scotland and Northern Ireland. Animal welfare is a devolved matter, meaning that the Bill is subject to the legislative consent process. The Welsh Government laid a legislative consent memorandum for the Bill before the Senedd in February, advising that they support the Bill applying to Wales.

The timing of the Senedd elections and the Queen's Speech means that there is now insufficient time for the Senedd to consider a legislative consent Motion before the end of this Session of the UK Parliament. Letting the Bill fall at this very late stage would be a regrettable outcome for both England and Wales alike. Given the circumstances, and mindful of the support expressed for the Bill by both the Welsh Government and other parties in Wales, the UK Government have decided to maintain their support for the Bill, notwithstanding that the Senedd has yet to pass a consent Motion. In the event that the Bill receives Royal Assent tomorrow, as I would hope, the incoming Senedd would have time to provide its support for the Bill after the election period and before the Act comes into force. We believe that this represents a pragmatic solution that will deliver widely supported enhancements to welfare and protection of animals in England and Wales.

Motion

Moved by ***Lord Randall of Uxbridge***

That the Bill do now pass.

Lord Randall of Uxbridge (Con): My Lords, first, I thank my noble friend Lord Gardiner of Kimble for his statement; I am sure that the Welsh Senedd will do the right thing, as this is extremely good for England and Wales. I am delighted and honoured that I was asked by my honourable friend Chris Loder in the other place to sponsor this important Bill's passage through your Lordships' House. I also pay tribute to a former Member of the Commons, Anna Turley, who first started this process—it seems rather a long time ago. I give great credit to Chris Loder for introducing the Bill and for successfully steering it with determination and skill through all its stages in the other place.

The Bill, as many know, has had a protracted passage through Parliament at a time of serious issues well outside the normal parliamentary experience, but it appears that we have come together and finally made it happen. As we know, it increases the maximum penalty for animal cruelty offences under the Animal Welfare Act 2006 from six months to up to five years' imprisonment. It is strongly supported and overdue. The Second Reading debate showed that the Bill received unreserved support from all sides of the House. I am sure that all noble Lords will agree that it is most reassuring that there are indeed matters, such as improving protections for animals under our control, on which we can all unreservedly agree.

[Lord Randall of Uxbridge]

I congratulate the Government on their continued support for the Bill and on the persistence required to deliver their manifesto commitment to increase sentences for animal cruelty. I also take this opportunity to thank noble Lords for their considered and important contributions. I extend my thanks to those outside Parliament who have supported the Bill, long-standing and tireless advocates for animals and their welfare. They include many charities and other organisations, such as the League Against Cruel Sports, the RSPCA, Battersea Dogs & Cats Home, Cats Protection, Dogs Trust, Blue Cross and World Horse Welfare. I commend their effectiveness in campaigning for and supporting the Bill and the increased maximum penalties it will provide. Many members of the public write to us in droves and sign e-petitions each month concerning animal welfare issues—evidence that we are a nation of animal lovers. The public's interest in discussions around protections for animals ensures that parliamentarians are kept abreast of emerging issues and can raise them with the Government, sometimes successfully.

Finally, I extend my thanks to all those hard-working civil servants in Defra, and indeed the Whips' Offices, for getting us to this point, just before the curtain comes down on this parliamentary Session. I am sure that, given this Government's commitment to strengthening animal welfare, we can look forward to more legislation in the coming months and years.

Bill passed.

1.28 pm

Sitting suspended.

Arrangement of Business

Announcement

1.30 pm

The Deputy Speaker (Lord Duncan of Springbank) (Con): I will call Members to speak in the order listed. As there is a counterproposition, any Member in the Chamber may speak, subject to the usual seating arrangements and the capacity of the Chamber. Any Member intending to do so should email the clerk or indicate when asked. Members not intending to speak should make room for Members who are. All speakers will be called by the Chair. Short questions of elucidation after the Minister's response are discouraged. A Member wishing to ask such a question must email the clerk. Leave should be given to withdraw Motions.

When putting the Question, I will collect voices in the Chamber only. If a Member taking part remotely wants their voice counted when the Question is put, they must make this clear when speaking on the group. Noble Lords following proceedings remotely but not speaking may submit their voice, Content or Not-content, to the collection of the voices by emailing the clerk during the debate. Members cannot vote by email; the way to vote will be via the remote voting system.

National Security and Investment Bill

Commons Reason

1.32 pm

Motion A

Moved by ***Lord Callanan***

That this House do not insist on its Amendments 11 and 15, to which the Commons have disagreed for their Reason 11A.

11A: Because it is appropriate and sufficient for oversight and scrutiny of decisions made by the Secretary of State for BEIS to be conducted by their departmental select committee.

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Callanan) (Con): My Lords, with the leave of the House, I will speak also to Motion A1. I will, of course, address any further comments at the end of the debate.

It goes without saying that I am delighted to be back in the Chamber after a short respite while the other place has considered our amendments to this Bill. I am pleased to advise noble Lords that there was resounding support for all the amendments made by this House, with the mere exception of two. The other place has resolved against amendments which, in effect, would have introduced a reporting requirement to the Intelligence and Security Committee in relation to the NSI regime.

Amendments 11B and 11C in lieu, tabled by the noble Lord, Lord West, draw on his earlier amendments. They would require the Secretary of State to include in the annual report provided for in Clause 61 a summary of his decisions in respect of final notifications given and final orders made, varied or revoked, as well as a summary of any national security risk assessment provided by the security services in relation to those decisions. Where publication of any of that additional information would be contrary to the interests of national security, the Secretary of State may instead place that information in a confidential annexe provided to the ISC. The amendments before us would end those requirements should the memorandum of understanding that governs the remit of the ISC be amended to bring the Secretary of State's activities under Clause 26 in scope of ISC scrutiny.

I merely echo the words of my colleague, the Minister for Small Business, Consumers and Labour Markets, on Monday, when he welcomed the "passionate and expert debate" this issue has seen in both Houses. In particular, I repeat the praise offered in this House for those who previously spoke in favour of this amendment. Rugby analogies aside, it is a particularly serious, knowledgeable and experienced group of Peers, and I of course acknowledge the weight and credibility that they undoubtedly bring to these issues.

However, the other place resolved by a significant majority of 106 to restore the Bill to its previous form in this regard. The elected Chamber has given this issue its due consideration, and a majority of 106 elected Members has made the position of the other place very clear. This includes four of the seven members

of the ISC, who, similarly, sit in the other place voting with the Government, with only one Conservative Member in the entire House voting against.

I do not intend to try the patience of the House and repeat the arguments that we have heard many times before which the Government have already made on this issue, but I will address the specific changes in this amendment from the original which this House has previously considered.

The Government do not consider that the addition of an endpoint for the effective requirement on the Secretary of State to provide confidential information to the ISC makes the approach any more necessary or appropriate. It is our view that the BEIS Select Committee remains the most appropriate committee for scrutiny. It is capable, it is interested and it stands ready. The Secretary of State for BEIS has written to the chair of the BEIS Select Committee to confirm this, and this was acknowledged by the chair of the committee in the other place, also on Monday. The BEIS Select Committee will be ably supported by the Science and Technology Committee, where that is appropriate.

The Government hugely value the Intelligence and Security Committee, but we also hugely value the BEIS Select Committee and the clear and appropriate scrutiny that it provides. We do not need to conflate the two through amending this Bill, the memorandum of understanding or, indeed, anything else in this field.

The Government's position, and that of the elected Chamber, is clear, and I can tell your Lordships that the Government have no plans to concede on this issue. I therefore ask that noble Lords respect the clear wishes of the other place and, while I am of course grateful for noble Lords' insight and passion on this matter, I hope that this House does not insist on these amendments. Therefore, I beg to move.

Motion A1 (as an amendment to Motion A)

Moved by ***Lord West of Spithead***

At end insert "and do propose Amendments 11B and 11C in lieu—

11B: Page 36, line 15, at end insert ", except for any confidential annex prepared under subsection (2B) while that subsection is in force"

11C Page 36, line 33, at end insert—

"(2A) Until the condition in subsection (2C) is met, each report must also provide, in respect of final notifications given, and final orders made, varied or revoked—

(a) a summary of the decision of the Secretary of State under section 26(1), and

(b) a summary provided by the Security Services of any national security risk assessment provided under section 26(3)(a)(ii) relating to each decision under section 26(1).

(2B) Until the condition in subsection (2C) is met, where the Secretary of State considers that publication of any information listed in subsection (2A) would be contrary to the interests of national security, those details may be excluded from publication and instead must be included in a confidential annex to the report provided to the Intelligence and Security Committee of Parliament on the same day that the rest of the report is laid before each House of Parliament.

(2C) Subsections (2A) and (2B) have effect only until a revised memorandum of understanding between the Prime Minister and the Intelligence and Security Committee of Parliament under section 2 of the Justice and security Act 2013 has been laid before Parliament which provides for oversight by the Intelligence and Security Committee of the activities of the Secretary of State under section 26 of this Act.""

Lord West of Spithead (Lab): My Lords, the question put back to this House is not whether the Government should take national security risks into account when considering investment but whether Parliament should have oversight of that process—that careful balancing of our national security against our prosperity. This House delivered a very clear message to the Government on Report that if the Bill is to provide the Secretary of State for BEIS with wide-ranging new powers, it must also provide for meaningful oversight of those powers. That meaningful oversight of high-level intelligence can be conducted only by the ISC, as the body which Parliament established for that express purpose.

I thought the strength of feeling in this House on the matter had been very clear, and, indeed, the rugby scrum to which the Minister alluded which I gathered in support had unbelievable knowledge and background in this whole area of intelligence, security and the ISC. It is therefore very disappointing that my amendment was rejected in the other place yesterday. I remain of the view that, without that amendment, the Bill does not provide for meaningful oversight by Parliament. Nevertheless, I have sought yet again to offer the Government an opportunity to see common sense on this and, therefore, rather than insisting on the original amendment, I have tabled this amendment in lieu. It requests the same substantive material—a summary of the decisions by the Secretary of State and a summary by the security services of any national security risk assessment in respect of final notifications given and final orders made, varied or revoked, which can be provided to the ISC in a confidential annexe—but it now provides that that material need not be provided if and when those activities are formally added to the memorandum of understanding, at which point ISC oversight is provided for through that route.

I have already set out why the ISC must have oversight and why it can only be the ISC, so I have no wish to try your Lordships' patience by repeating those arguments, or indeed those made by noble Lords from across the House who spoke in support of my amendment. The substantive point has been made, and I have to say that the argument has been won—I know that from having talked to people in the other place.

I wish to examine more closely the assertions made more recently by the Government in the other place, as I would not wish any of them to muddy the water on this issue. The Government's starting point was that the ISC can already scrutinise the information provided to the ISU by the security services. That is indeed the case—we can require the security services to provide us the information which they provide to the ISU on the national security risks—but that is missing the point. What the ISC must be able to scrutinise is the balancing of those security risks against the business elements. It is that crucial balancing which is at the heart of the Bill. There is little point in seeing what the national security risks are if you cannot see what decision has been reached regarding those risks. That is precisely why my amendment makes reference to the decision of the Secretary of State.

[Lord West of Spithead]

Moving on to that decision, the Government's next argument is that the ISC cannot oversee decisions made by the Secretary of State for BEIS because BEIS is not listed in the ISC's memorandum of understanding. That is indeed the case but again that is, I am afraid, missing the point, deliberately or otherwise. As I have already explained to noble Lords, the Government gave a commitment to Parliament that the ISC would, through its MoU, oversee all security and intelligence matters across all of government. The seven bodies currently listed on the MoU are those that were carrying out security and intelligence matters in 2013. That list of bodies should be kept and updated, as the Government told Parliament was their intention. It would be very simple to add something such as BEIS to the list.

With that argument dispatched, the Government move on to their next line of defence—that decisions by the Secretary of State for BEIS must be for the BEIS Committee to scrutinise, and that the ISC should not encroach on that remit. That is, I am afraid, a direct contradiction of the Government's own MoU. The Government have already expressly said that the ISC's scrutiny will not affect the wider scrutiny of departments such as, for example, the Home Office, FCDO and MoD by parliamentary committees. The same would be true for BEIS. If the decisions by the Secretary of State for Defence or the Home Secretary can be scrutinised by the ISC, why are the decisions by the Secretary of State for BEIS any different? I am curious as to what it is about BEIS that sets it apart and means that the ISC should not oversee it?

At this point, the Government resort to their final argument. I have to say here that I find it rather tenuous to argue that the ISC does not need to provide oversight because the BEIS Select Committee can do it. The Secretary of State for BEIS has written to the chair of the BEIS Select Committee talking about confidential briefings in a most reasonable manner. However, we need to examine what that does not say, which is, "The Government will hand over our top secret information to you, your committee and your staff for you to hold, scrutinise, take notes on, discuss, question us about and report on". That is because the Government cannot do that. The words being used belie the practicalities of the Government's own security procedures—unless, of course, the Minister is going to tell us that the Government are prepared to breach their own security procedures.

The proposals do not amount to meaningful scrutiny. I say this with the greatest respect to the BEIS Select Committee, whose chairman, in a most thoughtful and measured speech in the other place yesterday, supported the ISC's oversight of this area. The BEIS Select Committee does excellent work and should rightfully be the primary oversight body for the work of BEIS and the business elements of the work of the ISU. However, the ISC is the only body that can provide oversight of the intelligence elements and balance them with the business elements. The ISC is the only committee of Parliament that has regular access to protectively marked information that is sensitive for national security reasons. This means that only the ISC is in a position to scrutinise effectively the work of those parts of departments whose work is directly concerned with intelligence and security matters, as the Government have said repeatedly until now.

The Intelligence and Security Committee was created by Parliament to handle classified information where Select Committees could not. The Government committed to using the ISC to scrutinise all their intelligence and security functions. Now we are told that the BEIS Committee is able to do exactly that. In this instance, apparently, the ISC is no longer needed. Let me be clear: the ISC currently does oversee this area of work, so the Government's proposal is deliberately removing it from ISC oversight. Is that what is going to happen in the future? Will security work be hived off successively to departments that will be told that the ISC cannot oversee them because it is not listed in a nine year-old MoU that the Government have failed to keep up to date?

I see the longer-term consequences of rejecting our amendments and wonder whether more areas of government are destined to follow suit. This could become a very slippery slope, denying Parliament and, indeed, the nation proper scrutiny of intelligence decisions if we do not take action now. For this reason, I have sought to offer the Government yet another opportunity. Rather than simply retabling my original amendment, I have offered them an alternative. Either the Government can provide the ISC with a classified annexe covering security and the Secretary of State's decision, or they can add those decisions to the existing MoU.

My amendment is a reasonable attempt to provide the Government with a way forward and a way out. I know that the Minister opposite has been put in a very difficult position on this issue. While recognising the strength of feeling across this House, there must be meaningful oversight of these new powers, and that can only mean the ISC. I am not looking for more work for myself, I can tell noble Lords, but only the ISC can do it. I beg to move.

1.45 pm

Lord Campbell of Pittenweem (LD): My Lords, as I have done throughout this process, I support the noble Lord, Lord West, and, having had the advantage of hearing him today and earlier, I endorse without qualification his remarks and powerful arguments in support of Motion A1.

I am encouraged in that because the Government are yet to produce any reason against these proposals that could be regarded as substantive. I am further encouraged by the fact that the chair of the BEIS Committee supports the proposition and the principle that the amendment embraces. It has been suggested, although not perhaps so strongly today, that confidential information will be made available to the BEIS Committee. There is a difference between confidential and classified. What is confidential as between one Minister and another can easily not be classified. In that respect, the Government have simply not proved their case.

What will that confidential information amount to? It will amount to what the Secretary of State thinks the committee can see. One could describe that, rather pejoratively, as being spoon-fed, but it will certainly come not with its interest in objectivity but with its

interest in the subjective opinion of the Secretary of State. In that respect, it is quite different—I repeat, quite different—from the role, powers and the exercise of those powers of the Intelligence and Security Committee. I am further encouraged in my position because I read that the Commons Reason for Motion A is that it is "appropriate and sufficient"—which is probably what Oliver Twist was told when he asked for some more. The words mean what people want them to mean and that, yet again, exposes the poverty of the argument offered by the Government.

I shall finish by reminding the House that members of the Intelligence and Security Committee are chosen for experience and a reputation for balanced judgment. As I have said previously, there have been occasions when nominations made to the committee have been turned down because a particular individual was not thought to have the necessary experience or qualities for the discharge of a quite remarkable responsibility. Members sign the Official Secrets Act and the procedure attached to that is a solemn moment. They form an intimate relationship with the security services—one of trust, which cannot be replicated in any circumstances, in my respectful view, by the relationship between the BEIS Committee and the Secretary of State.

The truth is that the Government do not have a good argument here and that is why they would be wise, even at this late stage, to adopt this amendment.

Lord Butler of Brockwell (CB): My Lords, I too believe that the noble Lord, Lord West, is right in insisting that the Government and the other place look again at another way of giving the ISC an explicit role in scrutinising highly classified intelligence underlying the Secretary of State's use of the powers in this Bill. The Government's position is, frankly, indefensible. On Report, the noble Lord, Lord West, reminded the House that at the time of the passing of Justice and Security Act 2013, the then Minister for security announced

"the intention of the Government that the ISC should have oversight of substantively all of central Government's intelligence and security activities to be realised now and in the future."—[*Official Report,* Justice and Security Bill Committee, 31/1/13; col. 98.]

The Minister in the other place confirmed on Monday that the Government stand by that statement, yet they refuse to amend the memorandum of understanding under the Act, to bring the Investment Security Unit in BEIS within the purview of the ISC. Frankly, I cannot understand why. In his amendment, the noble Lord, Lord West, has offered the Government an easy way out. If they will amend the memorandum of understanding to bring the Investment Security Unit explicitly within the purview of the ISC, as it would have been had it remained within the Cabinet Office, the problem will be solved at a stroke. There will be no need for this amendment, and if the Minister will give that assurance today, I hope that the noble Lord, Lord West, would be prepared not to press his amendment.

In the other place, a Conservative Member, Steve Baker, said that the chairman of the ISC, Dr Julian Lewis—another Conservative Member—had made an open-and-shut case for amending the MoU, and yet Mr Baker, under the constraint of his Whips still voted against the amendment. If the Minister's reply is that the ISC can cover the Investment Security Unit without amending the MoU, I am bound to ask: what is the point of having the MoU at all? The Minister has only to say that the Government will make this amendment to the MoU and he will save the Government and all the rest of us, a good deal of trouble. Will he do so? I suspect that the Government's position is a result of the arrogance of a Government who have a large majority in the other place. They have taken a position and refuse to change it, however strong the arguments on the other side.

The Deputy Speaker (Lord Duncan of Springbank) (Con): The noble Lord, Lord Lansley, has indicated his desire to speak.

Lord Lansley (Con): My Lords, I am very pleased to follow the noble Lord, Lord Butler of Brockwell. I agree entirely with what he had to say and with the noble Lords, Lord Campbell and Lord West of Spithead, too. It comes down to a very simple proposition: throughout, we have been very clear that if the Government would simply amend the memorandum of understanding with the Intelligence and Security Committee to include reference to the Investment Security Unit, there would be no need for any amendment to the Bill. That remains the case now. The question why the Government are not doing this.

The Minister in the other place said on Monday night:

"The work of the security services on investment security in support of the ISU clearly falls within the remit of the ISC."—[*Official Report*, Commons, 26/4/21; col. 154]

If that is the case, what is the impediment to adding the ISU into the memorandum? I think it is that the Government do not interpret the ISC as having a remit that extends beyond what the intelligence services themselves have offered by way of information to the Investment Security Unit in BEIS, to the point where —as the noble Lord, Lord West, quite accurately summarised—the scrutiny of how national security is being maintained in the decisions that become part of the interim or final orders made under this Bill.

The Government's problem may be that they think that if they were to include the ISU in the memorandum of understanding, they would effectively create some duplication between the scrutiny of the order-making power by the BEIS Select Committee and the Intelligence and Security Committee's scrutiny. That need not be the case. It is perfectly clear already, within the memorandum of understanding that was quoted by Dr Lewis in the debate on Monday night, that the ISC's work in looking at the intelligence services

"'will not affect the wider scrutiny of departments…by other parliamentary committees. The ISC will aim to avoid any unnecessary duplication with the work of those Committees.'"—[*Official Report*, Commons, 26/4/21; col. 160]

It seems to me that the resolution is very simple—the Government should simply add the Investment Security Unit into the memorandum of understanding. It is clear from what the ISC's chair and members have said that they would not expect to duplicate the work of BEIS —the primary scrutiny of BEIS's work—in implementing this legislation, but there are specific questions that relate to the use of intelligence and highly sensitive intelligence materials.

[Lord Lansley]

I was not comforted by reading that the chair of that committee in the other place has been told by the Secretary of State that he will brief him on privy counsellor terms. That tells us that the chair of the committee may know something, but the BEIS Select Committee in the other place will not generally know it. Its members will not be able to discuss that information and they will not be able to report on that basis. There is clearly a deficiency, as Dr Lewis quite rightly said—a scrutiny gap—in relation to the use of top-secret material on a routine basis in informing decisions made under this legislation. The inclusion of the ISU in the remit of the Intelligence and Security Committee will close that scrutiny gap.

Lord Fox (LD): My Lords, the Minister used the word heavyweight; I would use the word authoritative about the speeches we have heard from the noble Lords, Lords West, Lord Butler, Lord Lansley, and my noble friend Lord Campbell. I do not have the same authority, but I have an eye for process and an eye for a discontinuity. At the heart of this is a central contradiction. This Bill is called the National Security and Investment Bill, and its central premise is that the world of security has changed. It is not about armies and air forces; it is about technology—the spread of technology and access to that technology. The Bill is built on the idea that we need an approach to the commercial use, sale and protection of this technology for the security of this country.

The speeches that the Minister has heard were characterised in his preceding speech as somehow decrying the abilities of the BEIS Select Committee. The BEIS Select Committee was not put in place to assess the security issues that these companies are facing. That is not its job; its job is to do what BEIS was there to do. This Bill, by its nature, by its very name, is a hybrid of two very important issues: investment and security. The BEIS Select Committee is there and is an expert on the first of those. The ISC is there to protect the country and to offer scrutiny on security issues. There is no problem in asking both of those committees to do what they are good at in order to fulfil the very important task that Bill seeks to undertake.

We can only conclude that, because the Government decided not to do this and because, as the noble Lord, Lord Butler of Brockwell, put it, they have a large majority in the other place, they will continue down this road. There is another opportunity for the Government to think again and do the most sensible thing, which is to amend the MoU. It does not require primary legislation, in my understanding, and would be done very quickly with the consent of this House. For that reason, if the noble Lord, Lord West, decides to put this to a vote, these Benches would like to ask that question of the people across the way, at least one more time.

2 pm

Baroness Hayter of Kentish Town (Lab): My Lords, it is clear that the Government have no good reason for refusing to accord the ISC its proper role in overseeing the intelligence input into a decision by the BEIS Secretary of State to forbid an otherwise bona fide investment in an enterprise—the sort of investment that the noble Lord, Lord Fox, has just described. I am sad to say that the Minister cited only the size of the House of Commons majority and gave no argument against proper parliamentary scrutiny. Frankly, if we are to say that this House should never question what the majority in the House of Commons does, you would wonder whether there is any role for this House. The size of the majority down there is not important; what is important to the security of this country is the correctness of the views that we take.

At one point, I think in this House, it was suggested that the Government did not want to amend the MoU case by case, but why not? As the noble Lord, Lord Fox, has said, if a new law comes in that has "national security" in its title and gives powers to a Secretary of State that depend wholly on intelligence, why not scrutinise that intelligence in respect of the use to which it is put? As we have head, neither the BEIS Select Committee nor its highly respected chair—who I assume will now be made a privy counsellor, since he is about to be briefed on Privy Council terms; I will be there to congratulate him if that happens—have the security clearance or experience to question the intelligence in the sorts of ways that we have been hearing from around the House. So why not let our experts carry out that work, on behalf of Parliament? What my noble friend is asking for is simple: an amendment to a memorandum of understanding. Is that too much to ask of the Government?

Lord Callanan (Con): I thank all noble Lords who have contributed; it has again been a good demonstration of the quality of contributions from this House. I have listened very carefully to the points that have been made, in particular by the noble Lords, Lord West, Lord Campbell and Lord Butler, and by my noble friend Lord Lansley.

I will address the primary issue head on. This was raised by the noble Lords, Lord West and Lord Campbell, and the noble Baroness, Lady Hayter. It is the issue of whether the BEIS Select Committee will have access to "top secret" information. We will make sure that the BEIS Select Committee has the information that it needs to fulfil its remit and scrutinise the work of the ISU under the NSI regime. Much of this is unlikely to be highly classified and, where the Select Committee's questioning touches on areas of high classification, it is likely that the relevant information could be given in a way that does not require as high a classification and provided to the committee confidentially. If, however, the BEIS Select Committee requires access to highly classified information, we will carefully consider how best to provide it, while maintaining information security in close collaboration with the committee's chair.

Another point made by the noble Lord, Lord West, was that the current system for scrutiny is run out of the Cabinet Office and therefore comes under the ISC's unit, so the Bill reduces the ISC's remit. The Government's main powers to scrutinise and intervene in mergers and acquisitions for national security reasons in fact come from the Enterprise Act 2002; the powers under that Act sit with the Secretaries of State for

BEIS and DCMS, not in the Cabinet Office. Giving the BEIS Select Committee oversight of the new NSI regime is entirely in keeping with this and does not represent a reduction of the ISC's remit.

A point made particularly by my noble friend Lord Lansley was about changing the memorandum of understanding, but the question here is not whether the MoU allows for the role proposed by noble Lords, but whether that role is appropriate. Our answer—and I appreciate that noble Lords will disagree—is no. The Government have made their case, which comes off the back of a resounding vote by the elected Chamber, that no change should be made to the Bill in relation to reporting to the Intelligence and Security Committee. We maintain our view that the BEIS Select Committee remains the place for scrutiny of the investment security unit and that the Intelligence and Security Committee remains the appropriate committee for scrutiny of the intelligence services, in accordance with the memorandum of understanding and the Justice and Security Act 2013. With acknowledgement to all who have spoken and with regard to the points that I have made, I appreciate the difference of opinion on this, but ask once again that the House does not insist on these amendments.

Lord West of Spithead (Lab): My Lords, first, I thank those who spoke in support of my Motion. They have an incredible amount of knowledge about this issue. I find the Government's position extraordinary and I feel sorry for the Minister opposite—for whom I have great respect—who has to parrot arrant nonsense. As an admiral and a captain who had defaulters in front of me, I have had people spouting arrant nonsense at me and I know how to spot it. This is arrant nonsense and I find that rather sad. It is unfortunate that he has to do this as I am sure that, deep down, he does not believe it, because he is an intelligent chap. I am appalled that the Government are not willing to give ground on this and I cannot understand why—I really cannot. This is not a great party-political issue or anything like that. It is quite extraordinary, so I am afraid that I will test the opinion of the House.

2.07 pm

Division conducted remotely on Motion A1

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Motion A1 agreed.

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Goldie, B.
Goldsmith of Richmond Park, L.
Goodlad, L.
Goschen, V.
Grade of Yarmouth, L.
Greengross, B.
Greenhalgh, L.
Griffiths of Fforestfach, L.
Grimstone of Boscobel, L.
Hailsham, V.
Hamilton of Epsom, L.
Hammond of Runnymede, L.
Hannan of Kingsclere, L.
Harris of Peckham, L.
Haselhurst, L.
Hayward, L.
Helic, B.
Henley, L.
Herbert of South Downs, L.
Hill of Oareford, L.
Hodgson of Abinger, B.
Hodgson of Astley Abbotts, L.
Hogg, B.
Holmes of Richmond, L.
Horam, L.
Houghton of Richmond, L.
Howard of Lympne, L.
Howard of Rising, L.
Howe, E.
Howell of Guildford, L.
Hunt of Wirral, L.
Inglewood, L.
James of Blackheath, L.
Jenkin of Kennington, B.
Johnson of Marylebone, L.
Jopling, L.
Kalms, L.
Kamall, L.
Keen of Elie, L.
Kirkham, L.
Kirkhope of Harrogate, L.
Lamont of Lerwick, L.
Lancaster of Kimbolton, L.
Lang of Monkton, L.
Leigh of Hurley, L.
Lexden, L.
Lilley, L.
Lingfield, L.
Liverpool, E.
Livingston of Parkhead, L.
Lothian, M.
Lucas, L.
Lupton, L.
Mackay of Clashfern, L.
Manzoor, B.
Marlesford, L.
Maude of Horsham, L.
McColl of Dulwich, L.
McInnes of Kilwinning, L.
McLoughlin, L.
Meacher, B.
Mendoza, L.
Meyer, B.
Mobarik, B.
Montrose, D.
Morgan of Cotes, B.
Morris of Bolton, B.
Morrissey, B.
Moylan, L.
Moynihan, L.
Naseby, L.
Nash, L.

Neville-Rolfe, B.
Newlove, B.
Nicholson of Winterbourne, B.
Noakes, B.
Northbrook, L.
Norton of Louth, L.
O'Shaughnessy, L.
Parkinson of Whitley Bay, L.
Patel, L.
Patten of Barnes, L.
Patten, L.
Penn, B.
Pickles, L.
Pidding, B.
Polak, L.
Porter of Spalding, L.
Powell of Bayswater, L.
Price, L.
Randall of Uxbridge, L.
Ranger, L.
Rawlings, B.
Reay, L.
Redfern, B.
Renfrew of Kaimsthorn, L.
Ribeiro, L.
Ridley, V.
Risby, L.
Robathan, L.
Rock, B.
Rotherwick, L.
Saatchi, L.
Sanderson of Welton, B.
Sarfraz, L.
Sater, B.
Scott of Bybrook, B.
Seccombe, B.
Shackleton of Belgravia, B.
Sharpe of Epsom, L.
Sheikh, L.
Shephard of Northwold, B.
Sherbourne of Didsbury, L.
Shinkwin, L.
Shrewsbury, E.
Smith of Hindhead, L.
Spencer of Alresford, L.
Stedman-Scott, B.
Sterling of Plaistow, L.
Stevens of Ludgate, L.
Stewart of Dirleton, L.
Strathclyde, L.
Stroud, B.
Sugg, B.
Suri, L.
Swinfen, L.
Taylor of Holbeach, L.
Taylor of Warwick, L.
Trefgarne, L.
Trenchard, V.
Trimble, L.
True, L.
Tugendhat, L.
Tyrie, L.
Udny-Lister, L.
Ullswater, V.
Vaizey of Didcot, L.
Vere of Norbiton, B.
Verma, B.
Waldegrave of North Hill, L.
Warsi, B.
Wasserman, L.
Wei, L.
Wharton of Yarm, L.
Whitby, L.
Willetts, L.
Wolfson of Tredegar, L.
Wyld, B.
Young of Cookham, L.
Young of Graffham, L.
Younger of Leckie, V.

2.21 pm

Sitting suspended.

Abortion (Northern Ireland) Regulations 2021

Motion to Approve

2.46 pm

Moved by ***Viscount Younger of Leckie***

That the Regulations laid before the House on 23 March be approved.

Relevant documents: 51st Report from the Secondary Legislation Scrutiny Committee (special attention drawn to the instrument) and 23rd Report from the Constitution Committee

Viscount Younger of Leckie (Con): My Lords, these regulations will provide the Secretary of State with the power to direct a Northern Ireland Minister, a Northern Ireland department, and the Health and Social Care Board of the Public Health Agency to take action necessary to implement all the recommendations in paragraphs 85 and 86 of the 2018 United Nations Committee on the Elimination of Discrimination Against Women, known as the CEDAW report.

We recognise that this is an unprecedented step, but such is the nature of the statutory duties on the Secretary of State for Northern Ireland that we have to act. While the regulations themselves are short, they are necessary to ensure that abortion services are available as a healthcare service in Northern Ireland, which will provide safe and local access for women and girls. We have made the most appropriate step in terms of the scope of any direction being limited to only what is needed to ensure that the CEDAW recommendations are implemented. This power, if exercised by the Secretary of State for Northern Ireland, can be used only for those purposes and will go no further.

I remind the House of the background to this. The House will recall that in 2019, during an ongoing absence of devolved government in Northern Ireland, Parliament decided that it was time to step in on this matter on the basis of human rights. These statutory duties did not fall away with the restoration of devolved government. We have always sought to deliver in a way that respects the devolution settlement, by putting in place the legal framework, but recognising that healthcare is devolved and therefore service provision should be delivered and overseen locally by the Department of Health and relevant health bodies with the relevant legal powers, policy and operational expertise to do so.

Noble Lords will also recall the previous debates that we have had on the 2020 regulations and the strongly held views across the Chamber on a range of finely balanced policy issues. This debate today is not about re-opening that; it is about ensuring that the duties under Section 9 of the NIEF Act can be implemented in full at the earliest opportunity. It is our firm view that the regulations that we made in 2020 established a new legislative framework that is operationally sound, works best for Northern Ireland, and delivers on the Government's statutory duty. That is why we do not intend to amend the regulations.

So why are we here today? We are here today to do everything we can to demonstrate how committed we are to fulfilling the Government's statutory obligations, and to ensure that women and girls in Northern Ireland have access to high-quality abortion and post-abortion care, consistent with the conditions set out in the 2020 regulations. As I have said, I recognise the emotive nature of these issues, but what is the issue at hand? As many noble Lords will be aware, over a year after the 2020 regulations came into force, women and girls in Northern Ireland are still unable to access high-quality abortion and post-abortion care in Northern Ireland, and the commissioning of full abortion services, consistent with the conditions set out in the 2020 regulations, has still not happened. In 2019, 1,014 abortions were provided in England and Wales for women from Northern Ireland, and women and girls still have to travel to access these services.

It has always been our expectation and preference that the Department of Health drives forward the commissioning of abortion services and ensures that these services become embedded in the health and social care system in Northern Ireland as an accepted and recognised healthcare service. While some abortion services have been provided since April 2020, and over 1,100 abortions have been provided in Northern Ireland,

[Viscount Younger of Leckie]
I am disappointed that services have not been formally commissioned, supported or funded by the Northern Ireland Department of Health, and that no guidance has been issued nor any official support measures put in place.

I hope that noble Lords will agree that at the very heart of this matter is the health of women and girls who have been, and continue to be, denied the same reproductive rights as women in the rest of the UK. Women and girls are entitled to safe, local healthcare. Indeed, during the pandemic this is even more crucial. We understand that managing the Covid-19 response has been an immense challenge and has placed the health and social care system in Northern Ireland under considerable pressure. However, the fact is that the law changed over a year ago. This is not a new issue that is a surprise to the Executive. Following the Northern Ireland (Executive Formation etc) Act 2019 receiving Royal Assent, and the Section 9 duties coming into effect, we engaged with all the Northern Ireland parties on this matter, and we continued to engage, being clear that Parliament had stepped in, and we would be delivering on those legal duties accordingly.

We are disappointed with the continuing failure of the Department of Health and the Northern Ireland Executive to commission abortion services consistent with the regulations that we have made, despite having extensively engaged with the Minister for Health, his department and wider members of the Executive on this issue for over a year. However, I put on record my thanks to the medical professionals who have ensured that women and girls have had some access to abortion services in Northern Ireland to date, and the organisations that have supported this work. I pay particular tribute to the late Professor Jim Dornan, a leader in his field and a passionate advocate for health issues such as cancer, but also women's reproductive rights.

Looking ahead, our strong preference remains for the Minister of Health and his department to take responsibility for upholding these rights, for commissioning services and for delivering on what the law now clearly allows. Let me make an important point. As abortion remains a devolved issue, the Assembly is able to legislate or indeed amend the regulations, should it so wish, but only if it can agree a way forward that is convention-compliant. However, the Secretary of State has an ongoing statutory obligation to ensure that the CEDAW recommendations are implemented in Northern Ireland.

It remains our preference that the Department of Health moves forward with full commissioning of abortion services in line with the regulations. That is why we are giving it every opportunity to act on this matter. I look forward to the debate and will seek to address as many questions as I can in my closing remarks. I hope that these regulations will be supported today and I beg to move.

Amendment to the Motion

Moved by ***Baroness O'Loan***

Leave out all the words after "that" and insert "this House declines to approve the Regulations laid before the House on 23 March because (1) the Northern Ireland Assembly is now sitting and the matter is devolved to that legislature; (2) the Regulations raise "complex legal and constitutional questions" in the view of the Secondary Legislation Scrutiny Committee; (3) the Regulations go beyond the Abortion (Northern Ireland) (No. 2) Regulations 2020 in that they undermine the devolution settlement in respect of education as well as abortion policy; (4) there has been no public consultation on the Regulations; and (5) the Regulations were laid shortly before the parliamentary Easter recess, which prevented the House considering them before they took effect."

Baroness O'Loan (CB) [V]: My Lords, I give notice that I intend to press my amendment to a vote. These regulations give the Secretary of State for Northern Ireland a power to direct a Northern Ireland Minister or department, the Health and Social Care Board and the Public Health Agency to take any action for the purpose of implementing the recommendations in paragraphs 85 and 86 of CEDAW. The powers conferred in these regulations are therefore extremely wide.

The Government have asserted that they have a duty to bring these regulations, but there is no time limit. This is work in progress for the Assembly and there can be no justification for intervening in the work of the Northern Ireland Assembly on this sensitive issue, disregarding the devolution settlement. The regulations will be implemented through directions from the Secretary of State. It is said that a direction will look like a statutory instrument, but we have procedures for statutory instruments. There are no procedures to scrutinise what is done by the NIO.

I ask your Lordships to vote against these regulations because the Assembly is sitting and the matter is devolved to that legislature. The regulations raise

"complex legal and constitutional questions";

they go beyond the Abortion (Northern Ireland) (No. 2) Regulations; they undermine the devolution settlement in respect not only of abortion policy but of education; there has been no public consultation; and the regulations were laid just before Easter, preventing the House from considering them before they came into effect.

Your Lordships will recall that this started in July 2019 when a group of MPs, none of whom represented Northern Ireland, urged upon the other place a duty to give effect to the CEDAW recommendations. There was no obligation on Parliament to give effect to them. All the Northern Ireland MPs voted against them, but their votes and the votes of the Northern Ireland Assembly were ignored. The Government did not question what was said in the other place and proceeded to make an unworkable House of Commons clause into Section 9 of the executive formation Act. There were no international legal obligations, something that the Government have now recognised.

This is a matter that should be dealt with by the Assembly. Work has been ongoing. There is a very firm belief in Northern Ireland that every life matters, that both mother and baby matter. There is provision, such as that suggested in CEDAW recommendations 85 and 86, for support for mothers and for those who make the choice, sometimes with great difficulty, to have an abortion. Undoubtedly, more resources are required.

Registered medical professionals in Northern Ireland now terminate pregnancies lawfully at no cost to the mother. Such terminations must, under the terms of the regulations passed here, be carried out in health and social care premises. Some 1,345 abortions were carried out in the past reporting year. Abortion is available in Northern Ireland, and safely.

Northern Ireland's health service was described as broken pre Covid. Mid-Covid, in January 2021, almost one in five of our population was waiting for a first out-patient appointment; half them have been waiting for more than a year. In December 2019 and January 2020, just before Covid, the Royal College of Nursing called the first strike action in its 103-year history in Northern Ireland. With great respect, it is for the political representatives of Northern Ireland to devise a way forward on the provision of health services and abortion services.

Northern Ireland is in a parlous state. Our Assembly is functioning but our political situation is very fragile. Brexit brought civil unrest and the terrorists—ever present—have become more active. Last week a bomb was left in a car into which a young police officer was about to put her three year-old daughter. Noble Lords will have seen the rioting which was switched on on Good Friday and lasted over two weeks. Some 88 police officers were injured, civilians were injured, families were threatened and property was destroyed.

Northern Ireland has a devolved Government. Most recently the Secondary Legislation Scrutiny Committee said that these are politically and legally important issues and should have had more consideration. Our Assembly faces more significant problems than the rest of the UK because of our history, the instability of our current situation and the impact of the EU NI protocol. We are in a different place from the rest of the UK. There is no imperative to affirm these regulations today.

If affirmed they will further marginalise the Northern Ireland Assembly in its attempts to do business co-operatively—

Baroness Scott of Bybrook (Con): I remind the noble Baroness of the time limit.

Baroness O'Loan (CB) [V]: It is important that your Lordships' House respects the attempts being made in Northern Ireland to deliver effective devolved government. I ask noble Lords to vote for my amendment and reject this further attempt to undermine the Northern Ireland Assembly. Help us. Have courage. I beg to move.

3 pm

Lord Morrow (DUP): My Lords, the United Kingdom is a relationship between three nations and a Province, a relationship in which together we are more than the sum of our component parts. The union has worked hitherto because Parliament has recognised that it cannot be used to impose a uniformity that undermines the key distinctiveness of the component parts. Parliament could, at any point since 1707, have voted to impose an English legal system on Scotland, but it has not because that would be to fatally disrespect Scotland and render the union unsustainable.

One of Northern Ireland's distinctions pertains to its approach to the unborn. As the then Secretary of State said in 2018,

> "Abortion has been a devolved matter in Northern Ireland since it was created in 1921, and it would not be appropriate for Westminster to seek to impose its will, or to be the arbiter of an issue that has long been devolved to the people of Northern Ireland."—[*Official Report*, Commons, 5/6/18; col. 220.]

In the last 50 years in particular, we have developed a distinctive approach that affirms the importance of both lives, the life of the mother and that of the unborn. That may not matter to people in other parts of the union, but it matters very much to the people in Northern Ireland. We are proud of the report that demonstrated in 2017 that 100,000 people are alive in Northern Ireland today who would not have been had we embraced the Abortion Act in 1967 along with the other jurisdictions in GB. Moreover, after a complaint and a five-month investigation, the Advertising Standards Authority ruled that this was a reasonable claim.

What makes the regulations before us today deeply problematic is that they rest on the regulation-making power in Section 9, which was developed on the back of a vote that took place on 9 July 2019 in which 100% of the Northern Ireland MPs who took their seats in Northern Ireland voted no, yet this radical Northern Ireland-only law change was imposed on us by MPs, none of whom has a mandate to represent Northern Ireland. The strength and reality of the union is not confirmed by the ability of the sovereignty of Parliament to impose legislation that pertains only to a component unit of the union against the wishes of its representatives. Rather, it is confirmed by the fact that even though Parliament could impose in these instances, it does not and instead respects the different priorities of the different components of the union in order that the union can continue.

The passage of Section 9 and these regulations has swept those normal conventions to one side. First, it was argued on 9 July 2019 that Parliament was duty-bound to pass the amendment that became Section 9 because Northern Ireland was in violation of international human rights convention obligations under CEDAW and the recommendations of the 2018 committee report on Northern Ireland. However, in paragraph 7.7 of the Explanatory Memorandum accompanying the regulations today, the Government now confirm that paragraphs 85 and 86 of the CEDAW committee report do not constitute legally binding international obligations. As such, they do not provide grounds for overruling devolution or, more fundamentally, the understandings that make it possible to argue for the relationship that exists between the UK's four component parts.

Secondly, it has been argued that, quite apart from international legal obligations, the law change introduced by Section 9 was necessary because of domestic UK legal process through the Supreme Court judgment on abortion in Northern Ireland in 2018. However, that argument is plainly absurd. The Supreme Court made no binding judgment whatsoever on abortion law in Northern Ireland. It reviewed narrowly whether certain elements of the law in Northern Ireland were not human rights compliant, not whether there was a general right to abortion.

[Lord Morrow]

The two areas where the court considered there would be non-compliance under Article 8 of the ECHR were abortions on the grounds of a fatal foetal abnormality and in cases where a pregnancy was the result of sexual crime. The judgment was not binding but, had Stormont been sitting and the law been amended accordingly, it would have resulted in a tiny increase in the number of abortions and the life-affirming traditions of Northern Ireland would have largely continued.

In the context where the existence of life-affirming laws is a long-term distinctive Northern Ireland legal tradition backed by its representatives on 9 July 2019, and where there is no justification for sweeping that aside on the basis of either international obligations or the ruling of the Supreme Court, one has to confront the harsh reality that the only reason why we are here today is that Parliament decided to take the risk—

Baroness Scott of Bybrook (Con): My Lords, I ask the noble Lord to wind up.

Lord Morrow (DUP): —of dispensing with the Northern Ireland tradition because doing so was a greater priority to Members of Parliament than the continuation of the union.

3.05 pm

Lord Shinkwin (Con): My Lords, I shall speak to the amendment in my name and give notice that I intend to test the opinion of the House.

I am a severely disabled parliamentarian who believes that I have as much right to exist as anyone else. The regulations may not apply to me directly, but they still threaten me because they challenge that right by devaluing my existence. The narrative of the regulations is that I should not really exist. Indeed, I would be better off dead. The Minister cites CEDAW, but I wonder how that narrative does not perpetuate a negative stereotype against disabled people, which CEDAW expressly prohibits. If we pass the regulations today, not only are we endorsing lethal disability discrimination right up to birth but we are in practice saying to anyone who is born with a disability that they somehow escaped the net.

To his credit, the Prime Minister has committed to publishing in the near future the most ambitious and transformative disability plan in a generation, so it is somewhat odd that Her Majesty's Government should none the less think it appropriate to publish regulations whose ambition is not to transform the lives of human beings with disabilities but, rather, to ensure that they never see the light of day.

I have to say that there seems to be a slight disconnect in the Government's messaging. Perhaps the Minister could explain to the House, to me and to Harry Cahoon from Belfast, whose mother, Grace, emailed me yesterday, how it makes sense for the Government to tell human beings born disabled, "We want to support you but only if we haven't found and killed you first." My bones break easily. Harry, who is a happy 17 month-old baby, has an extra chromosome. Brittle bones and Down's syndrome respectively are our medical conditions. We both, therefore, meet the criteria in the regulations that we have a physical or mental impairment that deems us to be severely or seriously disabled, so under these regulations we would qualify for death right up to birth.

That is ultimately what the regulations are about: death for disability—in other words, state-sanctioned, state-sponsored lethal disability discrimination. It is tragic that, despite the immense sacrifices of my grandparents' generation, who fought and died in the war, the eugenicist poison that informed Adolf Hitler's Aktion T4 euthanasia programme against disabled human beings is now informing government policy and being imposed on the people of Northern Ireland.

We have a choice: do we effectively endorse lethal disability discrimination, or do we instead send a resounding message of affirmation to human beings born disabled, and to their families, that your Lordships' House upholds their dignity and equality? I beg to move.

3.10 pm

Baroness Barker (LD): My Lords, I preface my remarks by making the observation that it is against the law, throughout the whole of the United Kingdom, to compel or coerce a woman to have an abortion against her will. This House is talking today about the legal provision of services that are locally accessible to women and girls who need them. It is part of an ongoing debate between those of us who believe that women and girls are capable of making—and have the right to make—informed choices about their reproductive health, informed by health practitioners who wish to guarantee their safety, and those who do not. There was much that I took exception to in the speech of the noble Lord, Lord Shinkwin. I do not have time to address those issues today, but I hope that the House will return to some of the very serious allegations that he made.

When noble Lords listen to the arguments today, they will hear many deeply held views, but they are not views about the devolution settlement; they are about Members' opposition to abortion. Those Members not only oppose the reform of Northern Ireland abortion law by Westminster but also support the restriction of abortion rights across Great Britain. They have worked to enable nurses and doctors to block women accessing the care to which they are legally entitled and have sought to stop essential clinical developments in abortion care, such as telemedicine.

We know that when it is difficult for women to access abortion care, maternal health suffers across the board. We know that, before the change in the law in 2018, over 1,000 women a year travelled to England and Wales from Northern Ireland for a termination of a pregnancy —and, during the dangerous time of the pandemic, they have continued, in their desperation, to do so. We really must not return to that because, as ever, it is women who are poor, and women in coercive relationships who cannot escape, who will suffer the most.

This measure is, unfortunately, necessary because the Northern Ireland Assembly has, over 15 months, frustrated every attempt to make sure that women have access to the services that they need. This is a limited measure simply to enable women to access the healthcare that they need. What timetable does the

Minister envisage for women to be able to access services across all four health and social care boards in Northern Ireland? When will we see the reintroduction of telemedicine, a service that has proved so effective in England?

For decades, women and girls in Northern Ireland have been weighed down by the politics of the past. Today is another opportunity for this House to give them hope for the future.

3.13 pm

Lord Dodds of Duncairn (DUP): My Lords, as noble Lords have said, at the very heart of this debate are the women, unborn children and their families who are affected by this issue. We must almost have them at the forefront of our consideration. I found what the noble Lord, Lord Shinkwin, said very powerful and moving. As the father of a child born with severe disability myself, I entirely understand what he said. I have spoken to, and been friendly with, many families with children with disabilities. They have found their family lives richly rewarding and speak powerfully to the value of every life. That must always be central when we discuss the issues of constitutionality, devolution settlements, the Sewel convention, parliamentary rights and so on.

On this side of the argument we simply ask that all lives matter. In consultation after consultation in Northern Ireland—and this is a devolved matter—the people of Northern Ireland have responded by saying that they value all lives and that they do not want the sweeping laws that have been introduced there to apply to them, especially when no one has voted for that. We now have the most liberal abortion laws anywhere in the United Kingdom and, even if you believe in abortion, you cannot say that that is a correct and proper process for Northern Ireland.

The Northern Ireland Assembly voted to reject these regulations on 2 June 2020. This is not some theoretical matter which the Assembly has not considered; it did consider it and, because of the sweeping nature of the laws, rejected the regulations. The Secretary of State for Northern Ireland was quoted by the BBC as saying that he was, nevertheless, committed to the regulations because they must comply with a UN convention. However, as has been pointed out, there are no such convention obligations. Paragraph 7.7 of the Explanatory Memorandum says that

"paragraphs 85 and 86 of the CEDAW Report",

on which the legislation was based, and which we were told was its justification,

"are not binding and do not constitute international obligations."

We therefore need to be very clear, when we come to vote, exactly what we are voting on, and keep all those unborn children in mind.

3.17 pm

The Lord Bishop of Carlisle: My Lords, we are all aware of the sensitivities surrounding abortion, as the noble Viscount, Lord Younger, has observed, and also of the wide range of deeply held views that it provokes. However, whatever our own particular standpoint on abortion per se, which is, as the House has been reminded, now legal in Northern Ireland, there are two specific aspects of these regulations which must be of general concern. One has to do with devolution, as we have already been reminded. To quote from a recent statement issued by the Archbishop of Armagh:

"It is a matter of regret that the Secretary of State for Northern Ireland intends to seek powers from Parliament to give direction to the Department of Health in Northern Ireland around what is clearly a devolved matter."

Many others, including 250 clergy from several denominations in Northern Ireland, have made a similar point about these regulations undermining the devolution of the Northern Ireland Assembly, now that it is functioning again. There is a strong and widespread sense of democratic deficit in this regard.

The other issue which demands urgent consideration is the recommendation in paragraph 85(b)(iii) of the CEDAW report that abortion should be legalised in cases of "severe foetal impairment"; that is, disability, including Down syndrome. We have debated that before in your Lordships' House and it has been raised already in this debate. Members of the Assembly have also already strongly indicated their support for a Private Member's Bill which rejects the inclusion of abortion on the grounds of non-fatal disabilities. The regulations now before us seem to disregard that entirely. Indeed, they would replace one of the most conservative abortion regimes in the United Kingdom with one of the most liberal and discriminatory. That accords neither with the wishes of a majority of Assembly Members nor with the views of a significant majority—79%—of those who responded to a recent public consultation on this subject.

For these two reasons in particular, I cannot support the regulations as they currently stand. In the event that they are approved, I note that the Secretary of State is not mandated to use draconian powers to ensure their full implementation. I hope that, in that instance, it might be possible for him to work closely with the devolved Administration to bring about an outcome that is rather closer to their position on this contentious topic.

3.20 pm

Lord Mackay of Clashfern (Con) [V]: My Lords, this is an instrument dealing with abortion. It is put forward under the authority of Section 9 of the Northern Ireland (Executive Formation etc) Act 2019. The introduction to that Act states that what it proposes is subject to the formation of the Executive. As your Lordships know, the Executive have now been operational for 15 months and accordingly it appears to me that the Act on which the Government are relying is not operative at the present time.

In any event, there are only three grounds under Section 26 of the Northern Ireland Act 1998 under which this Parliament can intervene in a devolved matter by statutory instrument in Northern Ireland: international obligation, safeguarding defence or national security, and protecting public safety or public order. The only question at issue under the statutory instrument is international obligation. The Northern Ireland Office made it clear in its submission to the Secondary Legislation Scrutiny Committee that there is no international obligation which requires this particular instrument, nor is this instrument enforceable except by the

[Lord Mackay of Clashfern]
questionable process of judicial review. Accordingly, it is contrary to these provisions for this instrument to be enacted. It is, further, of considerable damage to the settlement in Northern Ireland for this instrument to be forced on the people of Northern Ireland without the agreement of the Executive. It is obviously a matter of considerable dispute in Northern Ireland and it is surely the objective of devolution to allow such matters to be decided in Northern Ireland itself.

In addition to these difficulties, the House of Lords Secondary Legislation Scrutiny Committee has said:

"We regard it as poor practice to bring new policy into effect when the House is not sitting, and using a procedure which prevents discussion before the legislation takes effect. It is particularly inappropriate when that policy is likely to be controversial."

The House, it says, may wish to ask the Minister to explain why:

"Contrary to the convention of allowing at least 21 days between laying an instrument and bringing it into effect, the 2021 Regulations came into effect eight days after laying."

I therefore take up the committee's suggestion that the House may wish to press the Minister for further justification as to why the Northern Ireland Office decided to bring these regulations into effect in breach of the 21-day convention, and during the Easter Recess.

My main point, of course, is my first one: that these regulations are ultra vires of the Secretary of State in the present circumstances and I find it impossible to support them.

The Deputy Speaker (Baroness Fookes) (Con): I now call the noble Lord, Lord McCrea of Magherafelt and Cookstown. If my pronunciation is less than perfect, I apologise to the noble Lord.

3.23 pm

Lord McCrea of Magherafelt and Cookstown (DUP): My Lords, we are being asked to give our consent to the killing of the unborn child. Many abortionists claim that abortion is the premature expulsion of the human foetus, but in reality it is the ending of a human life. They try to make it sound as nonviolent as possible, but that is not true. As a pastor, I have met many people, including young women, who find themselves in distressing circumstances and, with Christian compassion, have sought to offer genuine help and practical support. But what of these regulations before us today? They go far beyond that which is legally required and are especially discriminatory against those diagnosed with disabilities; they are insensitive and offensive.

We listen to those who piously proclaim that they would never do anything to undermine the Belfast agreement or the devolution settlement, yet the corrosive constitutional nature of this legislation is seriously damaging to devolution and is like throwing a hand grenade into the fragile structures of devolution. This is an unreasonable exercise of emergency constitutional powers when a devolved Government are functioning. Can anyone imagine Westminster interfering in issues fully devolved to the Scottish Parliament? The answer is no, but the Government, through this legislation, have crawled over the mangled bodies of little children to appease Sinn Féin demands before that party would allow devolution to be restored.

Life in our nation has been devalued. What is being proposed goes against everything God's word teaches concerning the preciousness of life. Sadly, I believe that part of the blame must lie at the feet of silent people who know better but never raise their voices to speak the truth in love. For years, the very thought of what happens in abortion outraged the community, but powerful lobby forces have been at work and, through the media, have sought to condition and harass people into acceptance. I fear that if we accept the taking of life in the dawn of its existence, we will soon be pressurised to take human life in the twilight of its existence as well. I will not be silent, for my conscience is bound by the word of God. Does no one care that children with a diagnosis of Down's syndrome, for example, are to be torn from their mother's womb although their lives are fully viable and valuable? Of course, the doors will not be open for the public to see the tearful reality and truth about the various methods of the death of these children—out of sight, out of mind.

In a democracy, the major decisions are tested at the ballot box, but this legislation is being forced upon the people of Northern Ireland without a mandate to do so. The Government are deliberately acting in defiance of the will of the elected representatives of the people of Northern Ireland. Over these past years, we have spent billions to save life, yet in this one-and-a-half-hour debate we are being asked to sanction the killing of the unborn child. Many have been complaining throughout lockdown about what we do not have, what we cannot enjoy and where we cannot go. As we vote today, I ask noble Lords to hear the voices of thousands of innocent little children who have never had the opportunity to live outside the womb and, before God, to prevent another unnecessary death. I wholeheartedly support the amendments before the House and I unreservedly reject the Government's Motion.

3.26 pm

Lord Hope of Craighead (CB) [V]: My Lords, this is an emotional issue, but I wish to express my own concern about the constitutional implications of these regulations.

To go back to the beginning, the legislation that introduced devolution to Northern Ireland followed a similar, although not identical, pattern to that adopted by the Scotland Act 1998. One of the issues that was much debated in the discussion about Scotland was what to do about abortion. In the end, it was decided that this should be a reserved matter, as it now is in Wales since 2006. The decision for Northern Ireland, on the other hand, was that it should be a transferred matter, and so within the legislative competence of the Northern Ireland Assembly, rather than that of the UK Parliament at Westminster. That was no accident. The Northern Ireland Act was the culmination of multiparty talks and the Belfast agreement of 10 April 1998. Those who are legislating here were content, without question, to accept the result of these talks. I cannot help thinking that if the Government were still respecting that result, as I believe they should, we would not be here today.

The only reason we are faced with this legislation is the duty placed on the Secretary of State by Section 9 of the Northern Ireland (Executive Formation etc)

Act 2019. As we know, that Act was passed while the devolved institutions in Northern Ireland were suspended. As the noble and learned Lord, Lord Mackay of Clashfern, so correctly pointed out, the Long Title of that Act states that one of its purposes is

"to impose a duty on the Secretary of State … to make regulations changing the law of Northern Ireland on certain matters, subject to the formation of an Executive".

I agree with the construction that the noble and learned Lord put upon those words. Northern Ireland now has a functioning Executive and the Assembly is now once again able to take these matters into its own hands and reform abortion law according to its own wishes—indeed, it has spoken, as the noble Lord, Lord Dodds, told us. So, we are not in the situation that the qualification in the Long Title contemplates. I agree with the conclusion that the noble and learned Lord has drawn and I suggest that we ought to have careful regard to it when considering the amendment of the noble Baroness, Lady O'Loan.

The Constitution Committee, of which I am a member, has raised a question as to the prospect and desirability of different laws on abortion operating in Northern Ireland. This is a very confusing and disturbing matter, because we are moving into very deep waters. I would be grateful if the Minister would respond as fully as he can to the question that the Constitution Committee has raised. One of the remarkable things about the Northern Ireland settlement is a unique provision in the devolution legislation which enables the Assembly to modify any provision made in or under an Act of the United Kingdom Parliament,

"in so far as it is part of the law of Northern Ireland".

But it can do this only if it is within its legislative competence, having regard, among other things, to the convention rights. So, it is a complicated matter and I would be grateful for the Minister's further observations on that awkward situation.

3.30 pm

Baroness Ritchie of Downpatrick (Non-Afl) [V]: My Lords, I am thankful for the opportunity to speak on this unprecedented move to provide the Secretary of State for Northern Ireland with such expansive powers. I share the concerns of many across the House and will concentrate on this issue during this debate.

I am pro-life but, for me, the debate is not about the rights or wrongs of abortion; it goes to the heart of the devolved settlement—as the noble and learned Lord, Lord Hope of Craighead, has already articulated. Under the devolution settlement it is up to the Assembly to legislate exclusively in a wide range of matters, one of which is health, including women's health and abortion. In this instance, I agree with the Motions before the House but disagree with the regulations.

If this proposed intervention by the Secretary of State for Northern Ireland is allowed through the approval of these regulations, a dangerous precedent will be set whereby the UK Government can legislate directly on devolved matters whenever they like. The Minister said that this power related exclusively to the issue of abortion; the House should take note of that.

I point out too that allowing the Secretary of State for Northern Ireland such expansive powers as are set out in these regulations not only is unprecedented but sets a dangerous precedent for the treatment of devolved powers in the UK, undermines the powers of our Assembly and would be in contempt of the Good Friday agreement. It is worth noting that the Assembly was restored in January last year. I believe firmly in devolution and am opposed to the principle of this legislation, without prejudice to my personal pro-life views on abortion.

In 2019, the previous Parliament voted to impose on Northern Ireland the extreme abortion recommendations of the United Nations CEDAW committee. This is a UN convention to which the British Government have signed up. I have been told, however, that CEDAW does not have any direct legal effect in Britain or Northern Ireland: it can report and recommend actions, but those are simply recommendations with no binding international human rights obligations. Moreover, it is not clear how these powers, conferred by the 2021 regulations, are admissible under the devolved settlement enacted by the 1998 Northern Ireland Act. It would appear that this is a constitutional overreach on a devolved matter. I ask the Minister to think carefully about this issue and to withdraw these regulations.

3.33 pm

Baroness Eaton (Con) [V]: My Lords, as a Conservative and Unionist, I am acutely aware that the maintenance of our union does not depend on the imposition of uniformity. If the union is to survive, we must respect the key distinctions between its different parts. Northern Ireland's long tradition of life-affirming laws may not be to everyone's liking, but we must acknowledge their existence—not because of a stunted view of human rights but because of a wider vision in which the rights of both the mother and the unborn have to be taken into account.

I am deeply concerned that, rather than respecting the traditions of Northern Ireland, some representatives of other parts of the union have actively sought to disinherit Northern Ireland of her traditions. We simply cannot do that if we want our union to survive. The vote that started this process in another place on 9 July 2019 resulted in all Northern Ireland MPs who took their seats in Westminster voting no, and yet this unwanted legislation was imposed on the Province by MPs from other parts of the union.

I cannot think of any example of this kind of case that ended well. There was the flooding of the valley in Wales and the destruction of the village of Capel Celyn, in the context of 35 of Wales's 36 MPs voting no. That is a huge issue for many people in Wales more than 50 years later. The imposition of the poll tax on Scotland a year early, against the wishes of its elected representatives, provides another case in point. Both events have been the subject of public apologies and, sadly, both now inform the narrative of independence in Scotland and Wales.

It is no surprise that legislation resting on such troubled foundations should be less than straightforward. These regulations cannot be enforced—certainly not in the normal way. As the Government conceded to the Secondary Legislation Scrutiny Committee, the only

[Baroness Eaton]
way to enforce them would be to judicially review the decision of an actor to whom they are directed to ignore them. Given this difficulty, and the implications of the nature of the vote of 9 July 2019 on which the regulations rest, I suggest that, rather than continuing with these regulations, the Government give Parliament the option of considering the restoration of Stormont and repealing Section 9.

In making this point, I say to advocates of abortion liberalisation: "What are you scared of?" It is patently obvious to anyone who knows anything about the Northern Ireland Assembly that it is not going to move back to a pre-October 2019 position. Indeed, it is interesting that the only legislative steps that the restored Assembly has taken—

Baroness Scott of Bybrook (Con): I ask the noble Baroness to finish.

Baroness Eaton (Con) [V]: I am finishing. The only legislative steps that the restored Assembly has taken is to consider a Bill to prohibit abortion on the basis of non-fatal disability until birth, a measure that would prevent perhaps only one abortion a year. I will certainly support the Motion in the name of the noble Baroness, Lady O'Loan.

3.37 pm

Baroness Hoey (Non-Afl): My Lords, the Government have said that they have no choice but to bring these regulations forward because of the obligations placed on the Secretary of State by Section 9 of the executive formation Act. We now know, having listened to and read many speeches, that this is just not credible. The noble and learned Lord, Lord Mackay of Clashfern, in particular, pointed this out so clearly. First, Section 9 was brought in in the context of legislation whose purpose was to help restore the Executive, along with maintaining abortion as a key part of the devolution settlement. The Executive has now been restored for 16 months and abortion remains in the devolution settlement. Secondly, the decision to introduce Section 9 was the decision of the previous Parliament, and no Parliament can bind its successor. Every Parliament must have the right to respond to changing circumstances.

The 2019 vote on which Section 9 rests saw 100% of Northern Ireland's elected MPs opposing Section 9, but it was imposed by the other MPS, none of whom represented Northern Ireland. Surely the Government have learned from the lessons of the past when trying to impose legislation on other parts of the United Kingdom. As has been mentioned, the poll tax is a brilliant example of that—a terrible mistake by a Conservative Government, and subsequently apologised for by David Cameron in 2006. I would have hoped that riding roughshod over devolved Governments was a thing of the past. It seems to be a thing of the past for Wales and Scotland, but somehow Northern Ireland is once again treated differently.

When it suits Her Majesty's Government, it is a devolved matter. Along with other Members, I tried very hard to get the definition of "victim" to be the same in Northern Ireland as in the rest of the United Kingdom. "Oh no", I was told, "that's a devolved matter". There are so many other examples—look at the treatment of veterans. We now know that the international obligations on which Section 9 was argued for are not binding. These regulations are an assault on the constitutional dignity of Northern Ireland. With the current instability in Northern Ireland as a result of another government diktat of the protocol, this will cause even more instability and concern.

Noble Lords' views on abortion are not the issue. Today's debate is not about abortion: it is about allowing a devolved Government to make their own decision on a devolved matter. There is a need for a debate on this in Northern Ireland. Perhaps one way of getting agreement on such a controversial issue would be a referendum.

However, these regulations will—and I must put it in this strange way—put another nail in the coffin of devolution for Northern Ireland. We are being treated differently. People in Northern Ireland are getting fed up with being treated differently, and we can start today in this House by showing that we believe in devolution and in the Northern Ireland Assembly having a right. I ask noble Lords to vote for all these amendments. I congratulate the noble Lord, Lord Shinkwin, on an extremely moving speech and totally support him.

3.40 pm

Lord Curry of Kirkharle (CB) [V]: My Lords, the regulations proposed by the Government are deeply troubling for the devolution settlement in Northern Ireland and the lives of the unborn. There is a danger that this regulation will further the damage done by the Northern Ireland (Executive Formation etc) Act 2019 in that instant changes were made without the Executive's approval because there was no Executive. However, now there is an Executive in Stormont exercising their constitutional right to govern. Do the Government no longer trust the institutions or leaders of Northern Ireland to govern? If the people and parties of Northern Ireland have a different view on abortion from that of this Government, should they not be allowed to form their own laws and regulations?

A Motion was passed by Stormont in June 2020 rejecting the changes that the Government made. At the very least, there is cross-party support for removing the right to abortion in cases of severe foetal impairments. This regulation takes no interest in the views of those representing the people of Northern Ireland. Instead, it assumes that the Secretary of State should be responsible for these decisions. This principle potentially threatens the union. I am sure that voters in Scotland will be taking note.

Furthermore, I have concerns about the implication of this regulation for the lives and rights of the disabled. Paragraph 85 of the report upon which the regulation is based states that severe foetal impairment should be considered grounds for an abortion. However, it goes on to say that this should be done

"without perpetuating stereotypes towards persons with disabilities".

This is a clear contradiction. If we value the lives of the disabled, we should not also pass laws allowing for the abortion of disabled babies. What does it say to those in our country, and in Northern Ireland, who have a severe disability, as we have heard already? The Government seem to be saying that these lives are less valuable.

Finally, paragraph 86 of the report mentions protecting women

"from harassment by anti-abortion protesters by investigating complaints and prosecuting and punishing perpetrators."

What forms of anti-abortion protest do the Government deem acceptable to take place in Northern Ireland? Will there still be space for peaceful exercise of free speech?

3.43 pm

Lord Taylor of Warwick (Non-Afl): My Lords, a womb is not a tomb. In 1996 I presented the Bill which created the UK's first DNA database. From the moment of conception, life begins, with unique DNA which no other human soul in the world has. Abortion, in the dictionary, means abandonment, death, destruction, expulsion, cancellation, rescission, revocation and feticide—cold, hard, final words which cannot be reversed.

I oppose these regulations. Abortion is a devolved issue. The Northern Ireland Assembly has now been sitting for over 15 months, so it is a serious violation of the devolution settlement for the Government to impose themselves further through the commissioning of abortion services—services which are already being provided. In the year since the abortion regulations were introduced, 1,345 lives have already been lost to abortion in Northern Ireland. There are now over 50 million abortions per year worldwide. That is more than one abortion per second. During the 90 minutes of this short debate, more than 5,400 babies worldwide will have been aborted.

Of the consultation responses, 79% registered general opposition, based on the historical and established position on abortion in Northern Ireland, yet these regulations ignore this clear opposition. These latest regulations go beyond what is available in the rest of the United Kingdom, against the wishes of the people of Northern Ireland and their politicians. For example, they permit gender-selective abortion and there is no requirement that a doctor be involved. There is a clear breach of Article 10 of the UN Convention on the Rights of Persons with Disabilities, which states that everyone has the right to life, whether able-bodied or disabled.

We start every day's session in both Houses of Parliament with prayers. Surely God's words in the Bible should not be ignored. Psalm 139, verses 13 and 16, emphasises how God views each and every life that He creates as ordained for a purpose and special:

"For you created my inmost being;
You knit me together in my mother's womb …
Your eyes saw my unformed body;
All the days ordained for me were written in your book".

We have a choice between man's regulations and God's words. Everyone who is for abortion has already been born. Unborn babies do not have voices, but they do have rights. A womb is not a tomb.

3.46 pm

Baroness Fox of Buckley (Non-Afl): My Lords, these regulations present me with a quandary. I look at the abortion arrangements that they allow for women in Northern Ireland with some envy. The unconditional access to terminations pre 12 weeks, and a more liberal overall approach that effectively decriminalises abortion, go beyond the Abortion Act 1967, and many of us who have argued over the decades for full reproductive rights for women would want such arrangements extended to the whole of the UK. Conversely, the position for women in Northern Ireland previously, when abortion was legally permitted only in very limited circumstances, was highly proscriptive and led many women to fear stigmatisation and criminalisation for decisions made about their own body, a fundamental tenet of women's freedom.

The recent problems created by a non-functioning Assembly, forcing women to travel for abortions or to see to term unwanted pregnancies, were intolerable. So I understand the justifiable argument for intervention while the power-sharing agreement was not functioning and women in Northern Ireland were left, in effect, without access to abortion services. But, and it is a big "but", we now have a functioning Northern Ireland Assembly, and while abortion is a devolved matter, something which I prefer was not the case, the imposition of these regulations by Westminster decree without consent—indeed, in flagrant defiance of a rejection of these regulations by democratically elected Northern Ireland politicians—is an obvious flouting of democracy. Even amid concerns about delays in commissioning services by the Assembly, why does the Secretary of State have such sweeping powers? We do not even know when they will end.

This is made worse by the sensitivity of the issue. Votes on abortion are rightly recognised as a matter of freedom of conscience. I do not agree with the concerns raised by the noble Lord, Lord Shinkwin, that post-24 week terminations represent any threat to the rights of the disabled, but I defend his right to put these arguments, and acknowledge that this is a morally charged question. A tone-deaf breach of an already strained devolution agreement on this issue does nothing to win the argument for more liberal abortion arrangements in Northern Ireland or tackle the hard questions.

I urge women's rights campaigners and the citizens of Northern Ireland to put their energies into winning public support in a popular mandate for changes in the law and in recognition of the importance of women's bodily autonomy. For pro-choice campaigners to support a UK Government deploying procedural chicanery that gives the Secretary of State unprecedented powers to expand abortion services seems to be cheating politically, and to be counterproductive and antidemocratic. By the way, having 90 minutes to debate women's rights or Northern Ireland devolution seems insulting to both.

3.49 pm

Lord Moylan (Con): My Lords, I have considerable sympathy with my noble friend on the Front Bench, because his entire legal case and the whole legal basis for his proposal collapsed within minutes of his sitting down after making his opening speech. In particular, as pointed out by a number of noble Lords but particularly the noble and learned Lords, Lord Mackay of Clashfern and Lord Hope of Craighead, he needs an international obligation to give him the statutory power to override the devolution settlement, but his own department and the Explanatory Memorandum

[Lord Moylan]
admit—and our own Constitution Committee has indicated—that there is no international obligation present in the CEDAW documents.

What really interests me about this whole measure is not the assault it makes on devolution as an abstract concept but the direct assault it represents on the Good Friday agreement itself. Last year we discussed the Northern Ireland protocol—in my view a bad treaty that has brought disruption to businesses and consumers in Northern Ireland, irrespective of communal affiliation. Jovian thunderbolts flew around this House at the thought that the Government could modestly though unilaterally alleviate that disruption to the practical benefit of the people there. The rule of law reigned supreme.

When we come to the Good Friday agreement, Jupiter falls silent—but we would all agree that the Good Friday agreement is a good treaty. It has ended terrorist violence and given Northern Ireland democratic self-government, yet here we are messing about with it on highly dubious grounds and with cavalier high-handedness. As one noble Lord said earlier, it cannot end well.

Earlier today at the Dispatch Box, my very same noble friend Lord Younger spoke to your Lordships' House of Her Majesty's Government's

"unwavering commitment to the Belfast/Good Friday agreement".

That is not what we are seeing evidence of this afternoon. The weather has changed, with little explanation. It is yet possible that the Secretary of State and the Northern Ireland Executive will reach an accommodation on this, but to achieve that with a gun pointing at the heart of the Good Friday agreement is a price too high to pay. I urge my noble friend to withdraw these regulations and think again.

3.52 pm

Baroness Suttie (LD) [V]: My Lords, as this debate has illustrated all too clearly, this subject provokes extremely strong emotions. I welcome these regulations from the Government but regret that they are necessary.

Contrary to many of the speeches we have heard this afternoon, there is in fact broad support in Northern Ireland and across party lines for the approach taken by the Northern Ireland Office in these regulations. Importantly, there is also a great deal of support for them from both the medical community and women's rights organisations—points made extremely powerfully this afternoon by my noble friend Lady Barker. It is also worth noting that the regulations were adopted yesterday in the House of Commons by 431 votes to 89, a very substantial majority of 342 votes.

I pay tribute to the many dedicated healthcare professionals in Northern Ireland who have continued to support women and to provide reproductive healthcare in these most difficult of circumstances, made considerably more challenging by Covid-19.

Speaking to friends and colleagues in Northern Ireland, there is a deep sense of dismay at some of the political games being played here and much concern about some of the misinformation adding to the heat of this debate. The facts are that these regulations are concerned only with giving the Secretary of State for Northern Ireland powers to direct local health bodies and officeholders to commission abortion services. These regulations do not amend regulations and provisions for legal abortion care, which were supported overwhelmingly in Parliament last year.

As the report published last week by the House of Lords Constitution Committee sets out clearly, we should also recall that these regulations stem from the legislation passed during the period when the Northern Ireland Executive was suspended and before it was restored in January 2020. The 2020 regulations sought to bring Northern Ireland in line with the rest of the United Kingdom in reproductive rights and to ensure that the whole United Kingdom met its international requirements through CEDAW.

Of course, it would have been hugely preferable for the Northern Ireland Executive to have fulfilled their responsibility directly, but it is now more than a year since the Executive was restored and they have failed to do so. This seems unlikely to change in the near future so, faced with stalemate in the Executive on these matters, these regulations have become necessary. The debate this afternoon is really about ensuring the implementation of a law that has been in place for over a year now; it should not be about reopening or unpicking what should be a settled matter.

Debates about devolution and constitutional wrangling, as set out in several of the fatal amendments before us today, must not be allowed to hide the facts about what is happening now in Northern Ireland as regards access to vital reproductive healthcare and the impact this is having on women's lives. Abortion in Northern Ireland is in a precarious position. Three local health trusts have stopped providing abortion services, with the consequence that once again women are being forced to travel to England for abortion services during a global pandemic or are purchasing unsafe abortion pills online. Despite the new legal framework coming into effect over a year ago, services remain unfunded and without commissioned support from the Northern Ireland Department of Health. It is surely unacceptable that reproductive rights vary across our United Kingdom.

I would like to reassure those colleagues who expressed concern about the potential impact of these regulations on the devolution settlement in Northern Ireland that—as my colleague in Northern Ireland, Alliance MP Stephen Farry, has said—these are an exceptional set of circumstances and should not create a wider precedent. As the Northern Ireland Office Minister Robin Walker put it so powerfully during the debate in the House of Commons earlier this week, and as the Minister repeated here this afternoon:

"At the heart of this matter are the women and girls in Northern Ireland who have been, and continue to be, denied the same reproductive rights as women in the rest of the UK".—[*Official Report*, Commons, Delegated Legislation Committee, 26/4/21; col. 4.]

I therefore urge noble Lords to support these regulations and to reject all fatal amendments.

3.57 pm

Baroness Smith of Basildon (Lab): My Lords, just over nine months ago the Minister and I sat opposite each other at the Dispatch Box and the House debated the terms of the abortion provision in Northern Ireland,

as set out in the 2020 regulations. Exactly a year before that, I sat opposite the noble Lord, Lord Duncan, while the House engaged in what was then a thoughtful and detailed debate on the Northern Ireland (Executive Formation etc) Act and the decriminalisation of abortion in line with the CEDAW recommendations, which we have heard about today.

This debate has been heard in your Lordships' House on a number of occasions, and we know there are long and deeply held convictions across the House on both sides of the issue. That is evident today from the amendments we see, but I urge noble Lords to respect the views of other people in the language they use. Nobody has the moral high ground on this issue. One of the reasons I feel so strongly about the provision of abortion rights in Northern Ireland is that, as the noble Baroness, Lady Barker, pointed out, it is not compulsory but a provision of services.

Noble Lords may recall the reasons why the Republic of Ireland changed its law. In 2012 a 31 year-old woman was denied an abortion following an incomplete miscarriage because the law would not allow it, and she died as a result of being denied that abortion. I am sure no noble Lord in this House supports that happening to any woman, but the right of life is for women as well. That seems not to have been addressed in the debate we have had, and I am sorry for the tone of some of the comments that have been made.

It is now getting towards two years since the Northern Ireland (Executive Formation etc) Act was passed, and the Secretary of State has a statutory duty to ensure that the recommendations in paragraphs 85 and 86 of the CEDAW report are implemented. The change in law then was in response to findings that the United Kingdom, as the state party, was responsible for

"grave and systematic violations of rights".

It was then, as it is now, the duty of this Parliament and the UK Government to uphold the rights of their citizens at a UK-wide level.

Although the 2020 regulations provided a framework for service provision, we know that the proper funding and commissioning of those services is yet to take place. That leaves women and girls in Northern Ireland without the same access to reproductive rights and advice as their counterparts in every other part of the UK. The existing law is not being implemented, and that is the reason behind these specific and, as we have heard, limited regulations before us today.

Today's order is supported by the Royal College of Obstetricians and Gynaecologists, the British Pregnancy Advisory Service, Amnesty International and Informing Choices NI. They report that: early abortion services are currently beset with uncertainty; they are being run by local health trusts without funding, which puts them at risk of temporary or permanent closure; and multiple heath trusts have stopped provision of services for periods of time. I have heard just this weekend that, in the Western Health and Social Care Trust, services were being provided by a single doctor without support until, unsurprisingly, that was no longer viable. On Friday, that trust suspended its early medical abortion service, effective immediately, and is refusing all referrals. Today's order gives the Secretary of State the power to direct that necessary action be taken to provide safe abortion services in Northern Ireland, as the law requires. We support it.

I have a couple of questions for the Minister and one brief comment, if time allows. First, he said the Secretary of State does not intend to use his power to direct immediately, but he is seeking further action from the Department of Health before the Summer Recess. Can he give any more information on that? Largely, my issue is with the continuing uncertainty.

Secondly, it has to be recognised that abortion services are not a stand-alone provision. They are part of the wider landscape of reproductive sexual health services. Could the Minister give more details on what supportive work is being done to provide counselling, access to contraception and quality relationship and sex education alongside changes in healthcare provision? The two go hand in hand.

Finally, the noble Baroness, Lady Suttie, spoke about the vote in the House of Commons last night, when these regulations were supported by 431 votes to 89. When we had a debate on the 2020 regulations, I said:

"As an unelected House, our role on secondary legislation is limited and narrow."—[*Official Report*, 15/6/20; col. 1995.]

I have said something similar in your Lordships' House on a number of occasions. At times, we find that frustrating—nobody more so than me, I can say. It remains frustrating, but it also remains my view that that is our role with secondary legislation. It would be extraordinary if, having seen secondary legislation passed in the House of Commons by 431 to 89, this House would decide to take a different view and, in effect, pass fatal Motions. As I have indicated, I support the order and oppose all three amendments.

4.03 pm

Viscount Younger of Leckie (Con): My Lords, first, I thank all speakers who contributed to this debate on the regulations on a subject matter which, as I said in my opening speech, I fully recognise is a sensitive and emotive issue. But can I start by saying how much I appreciated the remarks from the noble Baroness, Lady Suttie? Her speech was sensible and balanced in terms of where we are now. She used the word "regret," and she is right, in terms of the position we find ourselves in.

I would also like to thank the noble Baroness, Lady Smith, for her remarks. I was grateful that she put, extremely eloquently, what we might both agree is the other side of the argument. I was very moved by the short story that she gave about the sad case of a particular girl.

I will directly answer one question the noble Baroness, Lady Smith, gave about the remarks that came from the Minister of State, Robin Walker, who said the plan is that the Department of Health in Northern Ireland will, hopefully, take heed of what we are doing and move quickly. However, he is happy to have what he has called a pause before the Summer Recess. That means he wants to allow further movement from the Department of Health so is prepared to allow a bit of leeway. I hope that provides some clarity, but if it does not, I will certainly write to the noble Baroness.

[Viscount Younger of Leckie]

The noble Baroness's second question, which I scribbled down, on the extent and quality of abortion services, is an extremely good point. I may be able to address that later, but if not, again, I shall write to the noble Baroness.

Baroness Smith of Basildon (Lab): My question was not on the quality of abortion services but on the wider services provided on sexual health, contraception and care.

Viscount Younger of Leckie (Con): Of course. That is an extremely good point. I will pick up on that.

However, I recognise that several noble Lords—and many today—have registered their strong opposition to what we are doing. But we are under a clear statutory duty, and it is important that women and girls in Northern Ireland are afforded equal rights to those living across the rest of the UK.

Before turning to the substantive issues raised in today's debate, since some noble Lords have questioned the extent of our legal powers, I would like the House to note that the JCSI has not drawn the instrument to the attention of both Houses for being ultra vires. But I will speak about constitutional matters later on, assuming that there is time.

I also note the amendments tabled by the noble Lord, Lord Morrow, the noble Baroness, Lady O'Loan, and my noble friend Lord Shinkwin. I hope that the answers I give in relation to the issues raised will go a little way in explaining that these amendments, in our view and in my view, should not be supported.

My noble friend Lord Shinkwin raised issues about the potential for the framework set out in the March 2020 regulations to allow for discrimination against disability. I do, as he will know, respect my noble friend, and I am grateful to him for raising this important and sensitive issue once again. He should note that we are legally bound to implement the CEDAW recommendations, which include providing access to abortions in cases of severe foetal impairment, not only in cases of fatal foetal abnormalities. It is our firm view that the regulations properly comply with the statutory duty under Section 9 of the NIEF Act, which includes implementing all the recommendations in the CEDAW report. The regulations mirror the law in the rest of the UK, where abortions are permitted in cases of severe foetal impairment and fatal foetal abnormality, with no time limit.

The Government would never act to discriminate on the basis of disability. The regulations are consistent with the rights under the United Nations Convention on the Rights of Persons with Disabilities. Proper provision of information, clear medical advice and counselling and other supports are all key in allowing a woman or girl to make an informed decision in what are often difficult situations. I was grateful for the remarks made by the noble Baroness, Lady Barker, who spoke eloquently and passionately about this aspect. This ensures access without barriers for victims of sexual crime as well as other women seeking an abortion, supporting the rights of women and girls to make informed decisions about how they wish to proceed, based on their health and wider circumstances, within the health system, rather than looking to alternative, unsafe means. This provision was determined as the most appropriate way of meeting our statutory duty and what CEDAW requires by ensuring that women, including victims of sexual crime, access services without undue delay while avoiding anything that could lead to further trauma or act as a barrier to access.

I would like to pick up on a point raised by my noble friend Lord Shinkwin. I will not be addressing his very strong views that he raised, and, as he would expect, I disagree very strongly with much of what he said, I regret to have to say. Let me say this: given the often late diagnosis and the timing of follow-up scans and tests, women will need to be given time to understand the nature and severity of the condition that they find themselves in. It is only right that women have appropriate time to make individual, informed decisions based on their own health and wider circumstances, including support where they want to carry a pregnancy to term. I think this point was made by the noble Baroness, Lady Barker, as well. It is crucial that the Department of Health acts urgently to formally commission full services, consistent with the regulations we made, so that these support measures can be properly delivered.

As I mentioned in my opening speech, I remind noble Lords that the Assembly can consider and debate issues related to abortion. As I also said in my opening speech, any amendments must be compliant with convention rights, and the Secretary of State has an ongoing obligation to ensure ongoing consistency with the recommendations in the CEDAW report in Northern Ireland.

The noble Lord, Lord Morrow, said that abortion remains devolved, and that the Government should instead be asking Parliament to repeal Section 9; that was mentioned by a few other Peers as well. I remind noble Lords that, although the Executive was restored, the statutory duty in Section 9 of the Northern Ireland (Executive Formation etc) Act did not fall away with the restoration, nor with the making of the initial regulations that came into force on 31 March 2020. The devolution settlement does not absolve us of our responsibility to uphold the rights of women and girls in this context. The noble Lord may not agree, but I think this goes a little way towards answering the question raised by the noble and learned Lord, Lord Hope of Craighead. This is not about stepping in on a devolved matter, as the noble Baroness, Lady Hoey, suggested it was. This is about ensuring compliance with the statutory duties Parliament imposed on the Secretary of State for Northern Ireland in mid-2019.

One point that I wish to comment on—it was also raised by the noble Baroness, Lady Suttie—is that I do not believe that the noble Lord, Lord Morrow, is correct when he says that all Northern Ireland MPs oppose this. May I quote from Stephen Farry, who said:

> "As an MP from Northern Ireland, I wish to stress my support for these regulations and the approach that is being adopted in this particular area by the Northern Ireland Office. There is a broad-based political support, and most importantly from the women's sector, for these regulations."

Here I echo the words of the noble Baroness, Lady Suttie. This should not be lost on the House.

We are in a unique position on this issue. As I said earlier, Parliament placed the Government under a very specific statutory duty with respect to access to

abortion services in Northern Ireland. That is why we have had to deliver the regulations, and continue to have a role in this space. I must re-emphasise these points to many who have spoken today, including my noble friend Lady Eaton, and the noble Lord, Lord Taylor. Although we made the regulations last March providing the framework for access to abortions, and some service provision commenced, this has not discharged that statutory duty in full. We are not seeking to reopen the 2020 abortion regulations, which were approved by a significant majority of this House—by 332 votes to 99—last year.

I shall now quickly answer some of the points raised by the noble Baroness, Lady O'Loan, about the Secondary Legislation Scrutiny Committee's report, which noted "complex legal and constitutional" issues. I agree that the issues raised are complex. I also agree with what the House of Lords Select Committee on the Constitution said; this was also raised by the noble and learned Lord, Lord Hope. It said that the UK Government and the Northern Ireland Executive should engage in a "constructive" manner.

I recognise that some noble Lords have concerns about the regulations providing unconditional access to abortions up to 12 weeks' gestation. This provision was determined as the most appropriate way of meeting our statutory duty, and what CEDAW requires, by ensuring that women, including victims of sexual crime, can access services without undue delay while avoiding anything that could lead to further trauma or act as a barrier to access. Based on current public data, 86% of the abortions accessed by residents of Northern Ireland in England under the Abortion Act 1967 in 2018-19 took place prior to 12 weeks' gestation and would be covered by this limit.

Before I finish winding up, I want to answer a point raised by my noble friend Lord Moylan and my noble and learned friend Lord Mackay on the international aspect of this obligation. It is true that the rules are domestic, so the duty to implement the CEDAW recommendations in this context is a matter of domestic law, which the Secretary of State is under a statutory duty to deliver, not a matter of international law. We recognise that Parliament has stepped in and imposed this duty on the Secretary of State for Northern Ireland on human rights grounds. I have addressed that directly.

In conclusion, we should bear in mind the fact that these further regulations are ultimately about ensuring that the regulations made in March 2020 are implemented. Essentially, they are about the rights of women and girls, and their being able to access medical treatment in distressing and difficult circumstances, where they have a right to choose what is right for them. We should act in a way to support them in these cases. That is why I commend the regulations to the House.

4.14 pm

Baroness O'Loan (CB) [V]: My Lords, I have listened carefully to this debate, and I would like to correct a couple of misapprehensions. Abortion services are available in Northern Ireland, and they are funded. There were 1,345 funded abortions in Northern Ireland, and there have been no instances in which people have been refused abortion in the way described by the Minister. More importantly, support services are also available. We do need more resources; we always need more resources.

Noble Lords have identified the important issues here as the protection of life and our constitutional settlement in Northern Ireland. To revert to the Minister's last point, where Parliament has legislated, it can, using its sovereign powers, change the law. This matter of the CEDAW recommendations is not a matter of our international human rights obligations, and is therefore devolved. It is therefore a matter that the Northern Ireland Assembly can change.

I thank noble Lords for their thoughtful and considered contributions to the debate. I thank those who recognised the current situation and spoke to encourage the work of the Assembly. I also thank the noble and learned Lords, Lord Mackay and Lord Hope, and other noble Lords for their clear articulation of the nature of our constitutional devolution settlement, which is the product of the Good Friday agreement, which is under threat as we talk today. We have had people, particularly in the loyalist community, withdrawing their support from the Good Friday agreement.

Baroness Scott of Bybrook (Con): Can the noble Baroness please move to the vote, as we are at the end of our time?

Baroness O'Loan (CB) [V]: This is where I am.

In this febrile and volatile situation, I ask you to take courage. I wish to test the opinion of—

Baroness Scott of Bybrook (Con): Order. I am sorry, but will the noble Baroness please move to the Division?

Baroness O'Loan (CB) [V]: I said that I wanted to test the opinion of the House.

4.17 pm

Division conducted remotely on Baroness O'Loan's amendment to the Motion.

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Baroness O'Loan's amendment disagreed.

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4.29 pm

Amendment to the Motion

Moved by ***Lord Morrow***

Leave out all the words after "that" and insert "this House declines to approve the Regulations laid before the House on 23 March because (1) rather than expressing the reality of the union between the constituent parts of the United Kingdom, they place that union in jeopardy, depending as they do on the power in section 9 of the Northern Ireland (Executive Formation etc) Act 2019, which was passed despite all of the Members of Parliament representing seats in Northern Ireland who had taken their seats at Westminster voting against amending the Northern Ireland (Executive Formation etc) Bill on 9 July 2019 to require the Secretary of State to make regulations to give effect to the recommendations of the report of the Committee on the Elimination of all forms of Discrimination Against Women, published on 6 March 2018; (2) abortion remains devolved and the Northern Ireland Assembly and Executive have now been restored for more than a year; (3) rather than welcoming the restoration of devolution, the draft Regulations undermine it to a greater extent than the Abortion (Northern Ireland) (No. 2) Regulations 2020 as they address devolved policy competencies beyond abortion, including education and health; and (4) the remit of everything in the Northern Ireland (Executive Formation etc) Act 2019 is defined in terms of moving towards the restoration of the Executive which has taken place, so rather than making new regulations as if Stormont was still suspended, and asking Parliament to pass them, Her Majesty's Government should instead be asking Parliament to repeal section 9."

Lord Morrow (DUP): My Lords, before I move my amendment, perhaps I might make a point of clarification. I think the Minister misunderstood and misquoted what I said and I just want to clarify what I said, which was this. A vote took place on 9 July 2019 in which 100% of Northern Ireland MPs who take their seats in Northern Ireland voted no. I am sure that the House will have noted today that no Peers from Northern Ireland have voted in support of the regulations. I beg to test the opinion of the House.

4.30 pm

Division conducted remotely on Lord Morrow's amendment to the Motion

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Lord Morrow's amendment to the Motion disagreed.

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Fink, L.
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4.42 pm

Amendment to the Motion

Moved by ***Lord Shinkwin***

Leave out all the words after "that" and insert "this House declines to approve the Regulations laid before the House on 23 March because they give the Secretary of State the power actively to commission discrimination in Northern Ireland by denying unborn human beings with disabilities the same protections afforded non-disabled human beings between 24 weeks gestation and full term; and because such commissioning would implicate the Secretary of State, and by extension Her Majesty's Government, in the perpetuation of negative stereotypes towards people with disabilities, as it would provide that while unborn non-disabled human beings from 24 weeks' gestation are worthy of protection from termination, those who might be born with disabilities are not."

Lord Shinkwin (Con): My Lords, I will keep my remarks very brief. I thank noble Lords who spoke in support of genuine equality. I am sure that that will be appreciated by disabled people and their families, whose voices are so often drowned out on this issue. They know, as I do, that the idea that these regulations are not discriminatory is absurd. I beg to test the opinion of the House.

4.43 pm

Division conducted remotely on Lord Shinkwin's amendment to the Motion

Contents 70; Not-Contents 409.

Lord Shinkwin's amendment to the Motion disagreed.

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4.56 pm

Motion agreed.

Arrangement of Business

Announcement

4.57 pm

The Deputy Speaker (Baroness McIntosh of Hudnall) (Lab): My Lords, these proceedings will follow guidance issued by the Procedure and Privileges Committee. When there are no counterpropositions, as for Motion A, the only speakers are those listed, who may be in the Chamber or remote. When there are counterpropositions, as for Motion B, any Member in the Chamber may speak, subject to the usual seating arrangements and the capacity of the Chamber. Any intending to do so should email the clerk or indicate when asked. Members not intending to speak on a group should make room for Members who do intend to do so. All speakers will be called by the Chair. Short questions of elucidation after the Minister's response are permitted but discouraged; a Member wishing to ask such a question, including Members in the Chamber, must email the clerk.

Leave should be given to withdraw Motions. When putting the Question, I will collect voices in the Chamber only. Where there is no counterproposition, the Minister's Motion may not be opposed. If a Member taking part remotely wants their voice accounted for if the Question is put, they must make this clear when speaking on the group. Noble Lords following proceedings remotely but not speaking may submit their voice, Content or Not-Content, to the collection of the voices by emailing the clerk during the debate. Members cannot vote by email. The way to vote will be via the remote voting system.

Financial Services Bill

Commons Reason and Amendment

4.59 pm

Motion A

Moved by ***Earl Howe***

That this House do not insist on its Amendment 1 and do agree with the Commons in their Amendment 1A in lieu.

1A: Page 36, line 13, at end insert the following new Clause—

"FCA rules about level of care provided to consumers by authorised persons

(1) The Financial Conduct Authority must carry out a public consultation about whether it should make general rules providing that authorised persons owe a duty of care to consumers.

(2) The consultation must include consultation about—

(a) whether the Financial Conduct Authority should make other provision in general rules about the level of care that must be provided to consumers by authorised persons, either instead of or in addition to a duty of care,

(b) whether a duty of care should be owed, or other provision should apply, to all consumers or to particular classes of consumer, and

(c) the extent to which a duty of care, or other provision, would advance the Financial Conduct Authority's consumer protection objective (see section 1C of the Financial Services and Markets Act 2000).

(3) The Financial Conduct Authority—

(a) must carry out the consultation, and publish its analysis of the responses, before 1 January 2022, and

(b) must, before 1 August 2022, make such general rules about the level of care that must be provided to consumers, or particular classes of consumer, by authorised persons as it considers appropriate, having regard to that analysis.

(4) The duties to consult under this section may be satisfied by consultation carried out after 1 January 2021 but before this section comes into force (as well as by consultation carried out after this section comes into force).

(5) In this section—

"authorised person" has the same meaning as in the Financial Services and Markets Act 2000 (see section 31 of that Act);

"consumer" has the meaning given in section 1G of that Act; "general rules" means rules made under section 137A of that Act."

Earl Howe (Con): My Lords, this Financial Services Bill will enhance the UK's world-leading prudential standards, promote financial stability, promote openness between the UK and international markets, and maintain an effective financial services regulatory framework and sound capital markets. I acknowledge the work of your Lordships in scrutinising this important Bill. The issue of parliamentary scrutiny has been prominent in our debates and noble Lords have more than demonstrated the positive role that they can play in this regard.

During the passage of the Bill, Members of both Houses debated how best to address issues of consumer harm in the financial sector. Amendment 1, which this House approved on Report, proposes that this should be addressed through a requirement for the FCA to bring forward rules on a duty of care. Let me underline that the Government are committed to ensuring that financial services consumers are protected and that steps are taken quickly to address issues, when they are identified. However, as the Economic Secretary set out in the other place, the Government believe that the FCA already has the necessary powers and is acting to ensure that sufficient protections are in place for consumers, so I cannot accept this amendment.

It is important to remember that financial services firms' treatment of their customers is already governed by the FCA's *Principles for Businesses* and specific requirements in its handbook. These fundamental principles set out specific requirements for firms, including that

"A *firm* must pay due regard to the interests of its *customers* and treat them fairly."

The FCA's enforcement powers allow it to ensure that these standards are met, but it recognises that the level of harm in markets is still too high. It is committed to taking further actions.

The Government accept, as the noble Lord, Lord Tunnicliffe, has rightly suggested, that this harm may stem from asymmetry of information between financial services firms and their customers. The risk is that some firms may seek to exploit this asymmetry. The FCA is well aware of how informational asymmetries and behavioural biases can influence consumer behaviour, and it works every day to address these issues where it considers that they may result in harm. The Government therefore support the FCA's ongoing programme of work in this area and believe that it will deliver meaningful change for the benefit of consumers.

The FCA has considered its existing framework of principles and whether the way in which firms has responded to them is sufficient to ensure that consumers have the right protections and get the right outcomes. Building on this, in May, the FCA will consult on clear proposals to raise and clarify its expectations of firms' actions and behaviours and on any necessary changes to its principles to deliver them. These proposals will consider how to raise the level of care that firms must provide to consumers, through a duty of care or other provisions. Ultimately, the proposals in this consultation seek to ensure that consumers benefit from a better level of care from financial services firms.

Amendment 1A puts this work on a statutory footing. It requires the FCA to consult on whether it should make rules providing that authorised persons owe a duty of care to consumers. It ensures that the FCA will publish its analysis of the responses to this consultation by the end of the year. It also ensures that the FCA will make final rules, following that consultation, before 1 August 2022. I hope that this provides reassurance of both the FCA's and the Government's commitment to this important agenda. I urge the House to accept this proportionate and, I believe, well-judged amendment.

The FCA will bring its consultation to the attention of the relevant parliamentary committees. This will give them an opportunity to consider the proposals and, if they choose, to express a view or raise any issues. The FCA will respond to any issues raised by parliamentary committees, in line with commitments made during the passage of this Bill.

Let me end there. I hope that noble Lords will accept Motion A and this amendment in lieu.

Baroness Kramer (LD): My Lords, we will not challenge this Motion. I cannot say that it goes as far as reassurance, but I think we are in a much better place to have the consultation and its characteristics in statute on the face of the Bill. I particularly thank the Minister and his team. I suspect they have been instrumental in making sure that the concerns, from all sides of the House, were communicated back to the Treasury and the Treasury team.

The Minister today repeated a number of the statements that the Economic Secretary made in the other place when he addressed this issue. I will highlight a few that were of particular importance to me. The FCA recognises that,

"the level of harm in markets is still too high and is committed to—"—[*Official Report*, 24/4/21; col. 867]

taking further actions. That is an important statement to have on the record. I am slightly concerned, however, that the focus of the FCA should not exclusively be on asymmetry of information. Asymmetry of information is fundamental and important, but it is far from everything. The Economic Secretary said that

"the FCA will consult in May on clear proposals to raise and clarify its expectations of firms' actions and behaviours, and on any necessary changes to its principles to deliver this."—[*Official Report*, Commons, 26/4/21; col. 84]

I hope that will not be confined simply to asymmetry of information, but as the Economic Secretary said, and the Minister today said, Parliament wants to be assured that the FCA's ongoing work will lead to meaningful change. I think that reflects some of the frustrations expressed in this House of having had eight consultations to date and relatively little action. I hope this will lead to a great change.

In the amendment in lieu—this is perhaps something the noble Lord, Lord Eatwell will address more extensively than I—the fact that all consumers are part of the consideration is an important one. I want to use this opportunity to underscore to the Minister how urgent and significant this issue is.

When the Government's amendment in lieu was passed, I got an email from one of the leading financial services lawyers in the country, and two things are pertinent. It said that it looks like this one is headed for the long grass again. I think that is partly because we are looking at action in 2022 and not immediately. The reason for that level of concern was, apparently, that audit firms are now saying that any credit risk between the client and the authorised firm should be counted as client money within the meaning of CASS—the protection of client assets and money. This is storing up some big problems when one of these babies—we are talking about firms that collectively have well over £10 trillion in assets under management—goes down and a judge finds that the trust is bust because they comingled client money with money that is not. Lehman Brothers, here we go again. I went immediately to the FCA site, and it is an excellent but sad example of the very limited powers that the FCA has to deal with such situations, because of the regulatory perimeter that limits a great deal of their potential for action to their definition of consumers. The issue has always been that that is a very narrow definition of consumer.

Every day we wait for a duty of care to become embedded in the system, we run significant risk. It is a risk that none of us wants—it has the potential to be limited to a small pool of clients, but also to knock the economy off its paces once again. It is important that there is an element of urgency built into all of this, that the issue is taken seriously and that there is not an attempt to narrow examination by and the focus of the FCA to simply something like asymmetry of information, but to consider the much wider picture before we end up with another crisis none of us wants.

Lord Eatwell (Lab): My Lords, while we on this side of the House were hoping for action rather than further consultation, and we remain somewhat puzzled as to exactly what further the FCA has to learn that was not learned in the consultation of 2018 when it published a discussion paper entitled with some prescience, *A Duty of Care and Potential Alternative Approaches*. None the less, despite our desire for action and puzzlement in that respect, we welcome the tenor of the Government's amendment.

In particular, I congratulate the Government on the clear acknowledgement that real harm is done today to millions of users of financial services by this famous asymmetrical relationship in financial transactions and that harm is done to those excluded from access to financial services. As evidence of this acknowledgement, I refer to the remarks just made by the noble Earl, Lord Howe, and also the remarks by the Economic Secretary to the Treasury, referred to by the noble Baroness, Lady Kramer. For example, Mr Glen said:

> "The Government agree with the concerns that … this harm may in part stem from an asymmetry of information between financial services firms and their customers. The risk is that many firms may seek to exploit this asymmetry. The FCA is well aware of how informational asymmetries and behavioural biases can influence consumer behaviour, and is committed to ensuring that these issues are addressed where it considers that they may result in harm".—[*Official Report*, Commons, 26/4/21; cols. 83-84.]

All I can say to that is: "Quite right too".

I am particularly pleased that in new subsection 2(b) in their amendment, the Government refer to the need to extend the duty of care to "all consumers". I urge the FCA to ignore the suggestion that a duty of care might be limited to "particular classes of consumer". That way lies unnecessary complexity and the potential for error and injustice. Any inclusive list of "particular classes" is also a list that excludes. Confining the duty of care to particular classes would also eliminate the peculiar advantages of principles-based regulation, namely the flexibility of the principle in an industry of which persistent innovation is a defining characteristic. This is an advantage not to be sacrificed lightly.

In the debates on this issue—including those in the other place—not only Mr Glen, but the noble Earl, Lord Howe, the noble Baroness, Lady Kramer, and several noble Lords have referred to the prevalence of asymmetric information in retail financial services. As we know, this renders markets inefficient. In retail financial markets, asymmetric information results in excessive risk being loaded on to consumers. A duty of care will rebalance risk by shifting the balance of risk from the consumer back towards the provider, which in an efficient market is where it should be.

However, the FCA must be alert to a potential consequence. This may well result in some financial services providers deciding to withdraw from the provision of services where previously they happily dumped the risk on consumers. This increase in exclusion would be contrary to the intent and spirit of the Government amendment. We should therefore emphasise that having the status of an authorised person in financial services is a privilege, and with that privilege comes responsibility. Indeed, as Mr Glen remarked in the other place,

> "authorised persons owe a duty of care to consumers."—[*Official Report*, Commons, 26/4/21; col. 84.]

He is quite right. It is the responsibility of financial institutions providing financial services not to withdraw but, on the contrary, to play their full part in tackling financial exclusion. I am sure that the FCA will address this issue as it draws up its new general rules on the level of care.

5.15 pm

The amendment sets out proposals on consultation. Consultations are important sources of information, and it is beneficial that those most active in the industry have the opportunity to express their views and to identify potential pitfalls. However, there is always the danger that the consultation that the FCA undertakes will be seen as an exercise in circumscribing the field of

[Lord Eatwell]
action—in watering down the duty of care. We should support the contrary. The FCA should not regard the results of the consultation as defining what it should do; rather, it should do the right thing. Having been a regulator myself, I know that regulators are never popular, but consultation is not a popularity contest.

A most welcome element in the Government's amendment is the timetable for action—not the immediate legislative action that we on these Benches sought, but a timetable none the less. I assure the Minister that we will be ticking off the dates by which the FCA is required to act, and of course we will scrutinise the new general rules with great care. In doing so, I look forward to working with the noble Earl, Lord Howe, to achieve what is now a clearly shared objective: a well-defined regulatory principle of duty of care.

Earl Howe (Con): My Lords, I express my thanks to the noble Baroness, Lady Kramer, and the noble Lord, Lord Eatwell, for what they have said. I am pleased that they have both taken the trouble to read the words of my right honourable friend the Economic Secretary when responding to the debate in the other place on Monday. I was careful to frame my remarks in a way intended to ensure that there is not a hair's breadth of difference between his words and mine.

The noble Lord made some very well-observed remarks on the risks arising from asymmetric information. However, I am happy to confirm to the noble Baroness that the FCA's consultation will not be solely focused on asymmetry of information, important though that is; it will look more broadly at raising the level of care that firms provide to consumers—not particular classes of consumers, but all consumers.

Some hesitation—I think that is the best word—was expressed as to why there is yet another consultation. In response to that, I say that it is important that consumer groups and firms have the opportunity to comment on clear proposals and subsequent draft rule changes before final rules are set in stone. So I argue that it is a necessary step, even though I fully understand the noble Baroness's wish for action this day. I remind her that we are talking about a consultation to be launched very shortly, and I hope that indicates that the sense of urgency which both noble Lords have indicated is right is shared by the FCA.

The FCA will and must act in accordance with its statutory objectives, which include the consumer protection objective. I come back to that point: this is not an issue that is ever lost on the FCA. With those comments, I am grateful to both noble Lords for their acceptance of the amendment in lieu, and I beg to move.

The Deputy Speaker (Baroness McIntosh of Hudnall) (Lab): My Lords, we have a request to speak after the Minister from the noble Baroness, Lady Neville-Rolfe.

Baroness Neville-Rolfe (Con): My Lords, I join others in congratulating my noble friend the Deputy Leader of the House and other Members of the Front Bench on the way they have dealt with the Bill and got us to this final stage. I just have a question about the consultation on the duty of care, and it stems from my experience in other areas of regulation—that is, health and safety and food safety. I have found that, where a duty of care is introduced, it is sometimes possible to change adjacent rules and regulations in a regulatory area and reduce the bureaucracy that can be a problem for both consumers and operators in the field. I would be interested to know whether that sort of work is likely to be envisaged by the Economic Secretary.

Earl Howe (Con): My Lords, I do not have an answer for my noble friend, but her point is extremely helpful and I shall ensure that it is fed into the thinking that will be wrapped around the consultation process as it goes forward.

Motion A agreed.

Motion B

Moved by ***Earl Howe***

That this House do not insist on its Amendment 8, to which the Commons have disagreed for their Reason 8A.

8A: Because the Commons consider that it is not a proportionate or practical means of tackling the issues around consumers who have mortgages with inactive firms.

Earl Howe (Con): My Lords, Amendment 8 concerns mortgage prisoners, an issue that the Government take extremely seriously. We are committed to finding practical and proportionate solutions to help this group but, as Motion B in my name makes clear, the amendment is not one that the Government can accept. As explained in Reason 8A, the amendment is neither a proportionate nor a practical response to this complex issue, and this is why the Government cannot support Motion B1, tabled by the noble Lord, Lord Sharkey.

In our previous debates, my noble friend Lord True set out the FCA's analysis of this complex issue. To recap briefly, according to FCA data, there are 250,000 borrowers with inactive lenders. Of these, analysis suggests that 125,000 borrowers could switch mortgage providers if they chose to, even prior to the introduction of the FCA's new rules. Of the 125,000 who cannot switch, the FCA estimates that 70,000 are in arrears and so would struggle to access a new deal even in the active market. The FCA therefore estimates that there are 55,000 borrowers who may struggle to switch but are up to date with their payments. Its data show that, on average, the 55,000 borrowers with inactive firms who have characteristics that would make it difficult for them to switch but are up to date with payments are paying around 0.4 percentage points more than similar borrowers with active firms who are now on a reversion rate.

As the Economic Secretary set out on Monday, the reason these borrowers are unable to switch is not that their mortgage is with an inactive firm; it is that they do not meet the risk appetite of lenders. For example, they may have a combination of high loan-to-value, be on interest-only mortgages with no plan for repayment, or have higher levels of unsecured debts, non-standard sources of income or a poor credit history. Similar borrowers in the active market are also very unlikely to be offered deals with new lenders.

My noble friend Lord True has previously set out the significant work undertaken by the Government and the FCA in this area, which has created additional options to make it easier for some of these borrowers to switch into the active market. If we look at Amendment 8, we see that what it proposes would be a very significant intervention in the private mortgage markets and in private contracts. It would bring with it a risk to financial stability as it would restrict the ability of lenders to vary rates in line with market conditions. The ability to vary standard variable rates allows lenders to reprice products to reflect changes to the cost of doing business and could therefore create risks with significant implications for financial stability. On top of that, the amendment is not fair to borrowers with active lenders in similar circumstances as it targets only borrowers with inactive lenders. Indeed, this cap would be deeply unfair to borrowers in the active market who are in arrears or unable to secure a new fixed-rate deal because it would not include them.

So, at the most basic level, I just do not think it is right to introduce such a significant intervention for those with inactive lenders which could cut their mortgage payments far below the level of someone in a similar financial situation who happens to be with an active lender. Nevertheless, while the Government are opposing this amendment today, I want to reiterate our commitment to finding any further practical and proportionate options for affected borrowers, supported by facts and evidence.

On Monday, the Economic Secretary set out what further steps the Government and the FCA are taking and I want to repeat those commitments today: namely, that

"the Treasury will work with the FCA … on a review to its existing data on mortgage prisoners".

This will ensure that we have the right data

"on the characteristics of those borrowers who have mortgages with inactive firms and are unable to switch despite being up to date with their mortgage payments. The FCA will also review the effect of its recent interventions to remove regulatory barriers to switching for mortgage prisoners and will report on this by the end of November, and … a copy of that review"

will be laid before Parliament.

"The Treasury will use the results of the review … to establish whether further solutions can be found for such borrowers that are practical and proportionate."—[*Official Report*, Commons, 26/4/21; col. 87.]

Within the significant constraints that I have noted, I want to reassure the House that the Economic Secretary, as the Minister responsible for this area, will continue to search for any further solutions that may provide support for borrowers with inactive lenders who are unable to switch. But, again, they must be practical and proportionate. The Economic Secretary has also confirmed that he will write to active lenders and encourage them and the wider industry to go even further and look at what more they can do to ensure that as many borrowers as possible benefit from these options.

I hope I have convinced the House that the Government are taking the appropriate next steps and have demonstrated our commitment to continuing to work tirelessly on this. Therefore, I ask the House not to insist on this amendment and I beg to move.

Motion B1 (as an amendment to Motion B)

Moved by ***Lord Sharkey***

Leave out "not".

Lord Sharkey (LD) [V]: My Lords, I was very disappointed that the Government felt unable to accept our amendment, which would provide relief for mortgage prisoners. I was disappointed, but the mortgage prisoners themselves were devastated by what they heard on Monday in the Commons. Many have called me, some in tears and all in obvious distress. None of them could understand why no solution had been offered by the Government and none could credit the arguments used by the Government in rejecting our—or, as they saw it, their—amendment. I entirely understood their point of view, their distress and their fears for the future.

5.30 pm

I emphasised on Report that I was worried we were stuck in an unproductive disagreement about the interpretation of statistics while real lives were being ruined and moral responsibility was being completely overlooked; and so it has proved. On Monday, the Government advanced some of the arguments for rejecting the amendment and the noble Earl, Lord Howe, has set out some of them again this afternoon. All the arguments are technical or speculative and all are highly contested. The Minister is, of course, aware of this. I made available a detailed rebuttal of most of them to him and his officials last week. I shall not go through them again in detail, but I will summarise the more important points.

The first argument was that half the 250,000 mortgage prisoners could in fact switch to better, fixed-rate mortgages. This is an FCA estimate, based on projections from a small sample. We think that it is self-evidently wrong. As Pat McFadden said in the Commons on Monday,

"why have so few of them switched if they had the ability to do so? It cannot be because they like being stuck on a rate of 4% or more."—[*Official Report*, Commons, 26/4/21; col. 91.]

The second argument advanced in the Commons, and in this House again today, was that mortgage prisoners paid SVRs only 0.4% above similar non-mortgage prisoners. We have explained previously to the House why this figure is wrong. We have also pointed out that SVRs are not the norm in the mortgage market. Only 10% of mortgages have them, and 75% of those move off them within six months on to much lower, fixed-rate deals.

The Government also claim that our amendment would distort the market and, even more implausibly, may be a threat to financial stability. There can be no significant market distortion in relieving the plight of 250,000 people in a well-defined, identifiable and closed group. The notion that rescuing these people would, or could, threaten financial stability is wholly unconvincing. The Government claim that a threat to financial stability may exist because it would restrict the lenders' ability to vary SVRs to reflect changes in the cost of doing business. It is notable that the cost of funds has decreased very significantly over the past decade. The SVR charged to mortgage prisoners has not.

[LORD SHARKEY]

We then come to the issue of fairness. The Government claim it would be unfair to provide special treatment to mortgage prisoners compared to others with similar credit characteristics. There is something truly ironic in this. The mortgage prisoners are in the position they are in precisely because it is they who have been treated unfairly by the Government. They are looking for a remedy for this mistreatment. They are looking for fairness to be restored to them. They did not cause their difficulties. They are not to blame for their misfortunes, as Martin Lewis emphasised when he recommended that MPs accept the Lords amendment. The responsibility for the plight of the mortgage prisoners lies squarely with UKAR and therefore with the Treasury. When UKAR decided to sell on the nationalised Northern Rock and Bradford & Bingley mortgage books to Cerberus, it said it had been reassured by Cerberus that the mortgagees would be able to access new deals and fixed rates, but they were not able to do that; it did not happen. UKAR then wrote to the noble Lord, Lord McFall, then chair of the Commons Treasury Select Committee, explaining that it had clearly been misled, but at the time it had no reason to disbelieve Cerberus. It also had no reason not to ask for these vital reassurances from Cerberus to be put in writing. The astonishing failure to do that is at the heart of this problem and is why the Treasury has direct moral responsibility for the state in which 250,000 mortgage prisoners find themselves.

The Treasury has never acknowledged this moral responsibility, nor have Ministers in our debates on this Bill. I invite the Minister to make that acknowledgement when he replies. Given that the Treasury caused this problem, it is very hard to see why, after all these years, it has not provided any significant relief. The Economic Secretary to the Treasury has repeatedly made the point that he is committed to finding a solution. I think no one doubts the strength of that commitment; I certainly do not. But equally, I think no one doubts that this commitment has come nowhere near to solving the problem.

On Monday, the Economic Secretary to the Treasury renewed his commitment and announced the measures that the Minister has just explained, which includes a commitment urgently to seek further solutions and to write to active lenders to urge them and the wider industry to go even further and look at what more they can do. That is entirely appropriate. I repeat that, so far, restrictions that were relaxed in October 2019 appear to have benefited only 40 mortgage prisoners. I mentioned this in Committee, and again on Report, and I invited the Government to rebut the figure. They have not done so.

All the measures proposed by the Economic Secretary are welcome, but I can tell the Minister that none of these things has given any comfort to the mortgage prisoners I have talked to. What is required is an acknowledgement of moral responsibility, at last, and a speedy and thorough remedy. I close with a concrete suggestion: the Minister will know that moratoria on repossessions will come to an end in May and October. Will he consider urgently extending these moratoria for certain types of mortgage prisoners until we have a solution to the underlying problem? If not, people will lose their homes. Let us at least prevent that while we continue to work together on a comprehensive solution. I beg to move.

The Deputy Speaker (Baroness McIntosh of Hudnall) (Lab): The original question was that Motion B be agreed to, since when Motion B1 has been moved as an amendment to Motion B. Therefore, the question I now have to put is that Motion B1 be agreed to.

Lord Stevenson of Balmacara (Lab) [V]: My Lords, I am very grateful to the Deputy Leader, the noble Earl, Lord Howe, for introducing the debate today. I particularly thank the noble Lord, Lord Sharkey, and his all-party parliamentary group for their determined efforts to make sure that this issue is kept alive and at the forefront of our debates on the Bill. We discussed this issue at Committee, on Report and now at ping-pong. We have had the opportunity to meet Ministers and we have been extensively briefed by civil servants, and I am grateful to all of them for the time they have taken to make sure we are fully briefed about the issues.

It is not uncommon to come across issues in Bills containing matters of public policy which seem to pose difficulties to the Government, despite general support for a solution expressed in amendments such as those we have before us today. In my experience, these often turn out to be what are called wicked issues, ones that span departments and need more time, it turns out, to be resolved in Whitehall than is available in the Bill. In this Bill, we had debates on statutory regulation for bailiffs, which probably falls into that category, as it was primarily a matter for the Ministry of Justice. Sadly, we have to wait for a resolution of a problem that all concerned agreed is actually settleable, albeit we have a deadline imposed of some two years. With that, now, the mortgage prisoner issue, but this is not really a wicked issue: the question of how to deal with mortgage prisoners really boils down to how to provide a "get out of jail" card for the small but not inconsiderable number of people—we think it is about 15,000—who are not able to exercise the basic choices about mortgage borrowing that we would regard as fair and appropriate for comparable citizens not caught in this prison. The sad fact is that while this issue continues, injustice is occurring.

Yes, there are problems of who qualifies; yes, there is a moral hazard; and yes, there may be unforeseen consequences. As Her Majesty's loyal Opposition, we do not normally recommend that any Government should intervene directly in the market—although providing support for those who are trapped in financial difficulties not of their own making has many precedents and, ironically, is presumably where we are likely to end up on this issue, as I very much doubt that the current voluntary solutions will take the trick. As the noble Lord, Lord Sharkey, says, only 40 have so far managed to make the transfer that is on offer through the changes the Government have already made.

I have to say that, since the powers to deal with this issue are already invested in the Treasury, it is hard to see why a possible solution based on the efforts to date to modify the normal affordability checks for existing borrowers, perhaps underwritten or guaranteed by the

Government, cannot be devised so that it deals with the situation in what the Government say they need, a proportionate and appropriate way—well, we would all applaud that.

All of us involved in this issue in both Houses have been impressed by the commitment and understanding of the issue displayed by the Economic Secretary to the Treasury, John Glen. We are supportive of his efforts to resolve this issue and want him to carry on—but with pace. We would be happy to continue the dialogue with him if that would be helpful. He stressed in the other place that one of his main concerns was that any solutions proposed should

"not provide false hope to borrowers".—[*Official Report*, Commons, 26/4/21; col. 85.]

He is right to say that, but I put it to him that our main concern, and the reason we have pursued this issue to this very late stage in proceedings, is that it is surely unconscionable for the Government to leave a group of their citizens with no hope of recovery from circumstances that, as the noble Lord, Lord Sharkey, pointed out, they did not create. We need to keep in mind the need for hope.

I trust that the positive words we heard earlier from the Deputy Leader, the noble Earl, Lord Howe, about the Government's strong commitment to finding proportionate and appropriate solutions to this problem will be turned into action very early in the new Session, with strong leadership from the Treasury, giving hope to those suffering the injustice we have been discussing. If the noble Earl can give that assurance when he comes to respond to this debate, I can confirm that we will not seek to test the opinion of the House on Motion B1.

The Deputy Speaker (Baroness McIntosh of Hudnall) (Lab): The noble Baroness, Lady Noakes, has indicated a wish to speak.

Baroness Noakes (Con): My Lords, I spoke at length on this amendment on Report, and I will be brief today. The first part of the amendment proposes to cap SVRs at two percentage points over base rate. As my noble friend the Minister pointed out, this is a potentially dangerous market intervention with financial stability connotations. A recent study by the London School of Economics specifically recommended against this solution to the problem of mortgage prisoners. As my noble friend the Minister explained, it would confer a benefit on mortgage prisoners beyond what they could have obtained as customers of current mainstream mortgage lenders. The loan and borrower characteristics of mortgage prisoners often put them in the high-risk and therefore high-interest rate categories. It is just not fair to confer better terms than are available to borrowers with active lenders but in similar financial positions.

The second half of the amendment proposes that the FCA should make rules that some borrowers would be offered new fixed-rate deals, but this is probably incapable of operation given that the FCA cannot tell mortgage providers it regulates to whom they should lend and on what terms. Alternatively, if the FCA really could dictate to mortgage providers in this way, it would be a stake in the heart of financial regulation as it works in this country.

I have great sympathy for those who find themselves on high SVRs because they took out their mortgages with lenders that for whatever reason are no longer active in the market. However, we should be very wary of solutions that do not take account of the particular characteristics of these borrowers. It is a far from homogenous population with, at one extreme, borrowers who can and probably should remortgage, through to those who simply do not fit the risk appetite criteria of any active lenders. The devil really is in the detail, and across-the-board solutions such as Amendment 8 will throw up more problems than they solve.

My noble friend the Minister has explained how the Government are committed to finding practical solutions to help those trapped on mortgage terms unrepresentative of market rates on offer for equivalent mortgage situations. In the other place, my honourable friend the Economic Secretary said he was "absolutely committed" to working with the FCA to find practical solutions and to being in touch with active lenders to see to what extent they can help with this problem. I believe that he is sincere in his commitment and that we should await the outcome of the further work he now plans to carry out, which should come to fruition later this year. I urge the noble Lord, Lord Sharkey, not to press his amendment.

5.45 pm

Baroness Kramer (LD): My Lords, I will be brief. My noble friend Lord Sharkey comprehensively answered the points raised by the Economic Secretary on Monday and by the noble Earl, Lord Howe, today in rejecting this amendment. I should point out that if the Government thought that the amendment was not quite correctly finessed, they could easily have brought in an amendment in lieu that would have achieved relief for mortgage prisoners, and they have chosen not to do so.

The nub of the problem is straightforward. Would the financial experience of a mortgage holder be the same if his or her mortgage had been sold by the Government to an active, rather than an inactive, lender? Even the Government do not deny that the answer to that is no. The difference in experience between those whose mortgages were held by active lenders, compared with those whose mortgages were sold to inactive lenders, has been markedly different. Those whose mortgages were held by active lenders that did not collapse in the 2008-09 crash have been able to take advantage of the fact that rates have fallen very sharply and have been offered a whole variety of new and different deals, as part of the normal practice of banks in dealing with their mortgage opportunities and portfolios. Those who ended up in the hands of inactive lenders have faced between limited options and none, and have been unable to take advantage of interest rates falling exceedingly sharply.

That is the only issue at play here. To compare those mortgage prisoners to people today seeking a mortgage is to look at an entirely false set of circumstances. I am concerned that the Government are choosing not to rectify the situation. It was the Government who chose to sell those mortgage assets to inactive lenders. They did so in good faith and without any expectation that the mortgage holders would end up in a different position from their peers who had taken out mortgages

[Baroness Kramer]
with institutions that did not fail. I understand that that was not an intentional process, but, regardless, the Government remain responsible for their decisions when they sold off those assets.

People are genuinely suffering and I ask the Government that the very small measure that my noble friend Lord Sharkey begged for at the end of his speech—that those individuals could at the very least be protected from foreclosures as we exit from Covid and the rules change on repossessions—could be put in place. The Government would then have an opportunity to justify the arguments made in both Houses that they are genuinely trying to find a solution to the problems and devastation that so many individuals face.

Lord Tunnicliffe (Lab) [V]: My Lords, we have not made as much progress on this issue as many people, including thousands across the country, would have hoped. That is not through any lack of effort. The noble Lord, Lord Sharkey, and my noble friend Lord Stevenson have been tenacious in their pursuit of change. However, for that to be possible, both sides must want to work towards a favourable outcome.

I said on Report that we were not convinced that this amendment provided the answer to the long-running problems experienced by mortgage prisoners. It certainly provides an answer, but I accept the argument that there would be consequences for the mortgage market as a whole. With this in mind, colleagues offered an alternative option in what was then Amendment 37B. Your Lordships' House has a reputation for being constructive and, in that spirit, the noble Lord, Lord Sharkey, and my noble friend made further offers to look at any text that the Treasury would be prepared to bring forward. Unfortunately, Ministers chose not to put an amendment on the table.

The Economic Secretary has, to his credit, demonstrated knowledge of the challenges in this area. Every time he has spoken, I have believed his wish to identify workable solutions. The noble Earl, Lord Howe, and the noble Lord, Lord True, have said similar things in our meetings; again, I have viewed their comments as earnest. The problem is that warm words do not pay bills—nor do they generally lead to lenders taking the kind of steps that are required. The initiatives launched to date have helped only a tiny fraction of mortgage prisoners, so one would have thought that the case for further action was overwhelming.

We wanted—and continue to need—the Government to take proper ownership of this issue. We welcome the fact that the FCA will conduct a further review of the options available to mortgage prisoners and that the Treasury will revisit its data on the different cohorts of affected customers. As well as following these processes closely, we will of course continue to press the Economic Secretary to do what is needed.

It is regrettable that we have not been able to achieve a satisfactory outcome on this legislation, which should have been more than another false dawn. However, Conservative MPs have rejected the case for action, and it is hard to imagine meaningful progress being made unless Ministers revise their red lines. Accordingly, we do not believe we should press this matter any further today and look to the noble Lord, Lord Sharkey, to withdraw his amendment. However, I can assure the Minister that we will return to this issue at the next legislative opportunity.

Earl Howe (Con): My Lords, I am grateful to noble Lords who have spoken in this short debate, both for their constructive comments and for re-emphasising the genuine concerns they clearly have for this unfortunate group of people who find themselves trapped in mortgages that cause them great difficulty. I do not doubt for a second the distress that many such people are experiencing, but my noble friend Lady Noakes brought us back to some very important realities on this vexed subject. I agree with the noble Lord, Lord Tunnicliffe, that it is regrettable that we have not been able to reach full agreement on the way forward. Nevertheless, I hope my earlier remarks indicated that we take this subject extremely seriously. I am confident that noble Lords who have listened to my honourable friend the Economic Secretary speak on the subject will be in no doubt whatever of his intention to keep on top of it in the weeks ahead.

Part of the problem we face relates to the data that underpin the case that the noble Baroness, Lady Kramer, and the noble Lord, Lord Sharkey, have made. The report of the UK Mortgage Prisoners group makes accusations about the data held by the FCA, essentially saying that the data analysis is wrong. However, I put it on record that the FCA data analysis was conducted using information on the 250,000 borrowers with inactive lenders alongside a credit referencing agency dataset which includes data on 23,000 borrowers with inactive lenders. The FCA data has shown that, on average, the 55,000 borrowers with inactive firms who have characteristics that would make it difficult for them to switch but are up to date with payments are paying around 0.4 percentage points more than similar borrowers with active lenders who are now on a reversion rate. Its analysis also shows that the majority of borrowers with inactive firms are on relatively low interest rates of 3.5% or less.

It is important that, as part of the review that the Government have announced, the existing data is analysed to provide further details on the characteristics of the borrowers of most concern. That is definitely a core part of getting to grips with what more can be done in this area.

It was suggested that in the first instance the Government failed these consumers. I repudiate that suggestion very strongly. The customer protections that we set were best practice for transactions of this type—or went beyond best practice: the Government strengthened the consumer protections for the last two sales of new car loans in response to concerns raised by parliamentary colleagues.

I do not accept the points made by the noble Baroness, Lady Kramer, about the difference between those whose mortgages were refinanced with active lenders and those who found themselves with inactive lenders. The sales of those mortgages did not impact customers' ability to remortgage elsewhere: customers with inactive lenders can remortgage with another provider as long as they meet the lender's risk appetite. The customer protections that we insisted on for new

car sales also included prohibitions on placing barriers in the way of customers remortgaging with another provider; for example, all early repayment charges are waived. These lenders are charging interest rates in line with SVRs set by active lenders.

The noble Lord, Lord Sharkey, asked about Cerberus. The customer protections in these sales were best practice in the market at the time. For the last two sales, restrictions on setting the SVR last for the lifetime of the mortgage. I add that Cerberus indicated that it was offering new products to customers but this was not part of its bid, so UKAR did not seek a binding commitment on this point. Cerberus was selected because it agreed to the consumer protections that were sought and provided the best value for money for taxpayers. I underline, therefore, that inactive lenders can, and often do, allow borrowers in arrears to make use of a variety of tools to get themselves back on track. Such tools include capitalisation of arrears, term extensions and payment holidays.

It is simply not true that the FCA has done nothing for this group of people. For example, to reflect the current Covid-19 situation, the FCA has brought forward guidance to allow borrowers who are up to date with their payments on a recently matured or soon-to-mature interest-only, or part-and-part, mortgage to delay repaying the capital on their mortgage while continuing to make interest payments. This guidance has enabled borrowers to stay in their own homes for a significant period. The FCA also confirmed that it was making intra-group switching easier for borrowers with an inactive firm that is in the same lending group as an active lender. On 14 September, the Money and Pensions Service launched online information and a dedicated phone service as a key source of information and advice for borrowers with inactive firms.

The point was made that the modified affordability assessment has helped only 40 households. The modified affordability assessment, I contend, provides an additional and important option for some borrowers who may not otherwise have been able to switch. We must just give it time to take effect. It will not be a silver bullet for all borrowers with inactive firms, many of whom have other characteristics that affect their ability to remortgage.

I will leave it there. I say again that I regret there has been no meeting of minds on this, but I also say that the Government place a great deal of emphasis on the work that is now in train. We will do our utmost to see what more can be done for mortgage prisoners as a result of the further analysis I have referred to. I hope noble Lords will see fit to agree with the Government's Motion.

6 pm

Lord Sharkey (LD) [V]: My Lords, I thank all noble Lords who have spoken in this brief debate. I listened carefully to the Minister's thorough reply. I was struck again that there was no acknowledgement of any moral responsibility for the condition of the mortgage business. I was totally confused by his explanation of dealing with Cerberus. I point again to the fact that UKAR wrote to the Treasury Select Committee explaining that it had been misled by Cerberus about its treatment of people who became mortgage prisoners.

I would like to place on the record that, contrary to what the noble Earl said, I have never said the FCA has done or was doing nothing to help relieve the plight of the mortgage prisoners. I know that is not the case, and I have always been careful not to say that.

I do not think there was any convincing explanation offered for why this problem has been allowed to run for over a decade. There was no comfort for mortgage prisoners in what the Minister had to say—or, at least, none in prospect. Regrettably, it is clear the Government are unwilling to meet us, and they have not proposed their own amendment in lieu of ours. Obviously, we have reached the end of this episode in this long and distressing tale. The Government remain, in my view, directly responsible for the major injustice done to our mortgage prisoners and the suffering they are experiencing.

We will, of course, return to this issue at every opportunity and willingly join and co-operate with any initiatives the Government and the regulator may want to consider. In particular, we would like the Treasury to release the data the LSE says its needs to complete its analysis of possible solutions. I would be grateful for that at some point. Perhaps the Minister could write to me and tell me the Treasury is prepared to do that and is doing that. But for now, I beg leave to withdraw.

Motion B1 withdrawn.

Motion B agreed.

Post Office Court of Appeal Judgment

Statement

The following Statement was made in the House of Commons on Tuesday 27 April.

"On Friday 23 April, the Court of Appeal handed down its judgment to quash the convictions of 39 postmasters. This is a landmark judgment, and I know that colleagues on both sides of the House will join me in welcoming the court's decision to quash those convictions. I will turn to what more needs to be done to address the wrongs of the past and to ensure that injustices such as this do not happen again, but I will begin by setting out the context for the judgment.

Over the years, the Horizon accounting system recorded shortfalls in cash in post office branches. The Post Office at the time thought that they were caused by postmasters, and that led to dismissals, recovery of losses and, in some instances, criminal prosecutions. A group of 555 of those postmasters, led by former postmaster Alan Bates, brought a group litigation claim against the Post Office in 2016. In late 2019, after a lengthy period of litigation, the Post Office reached a full and final settlement with claimants in that group.

It is clear from the findings of the presiding judge, Mr Justice Fraser, that there were real problems with the Horizon IT system and failings in the way that the Post Office dealt with postmasters who encountered problems or raised complaints in relation to Horizon. The findings of Mr Justice Fraser led the Criminal Cases Review Commission to refer the convictions of 51 postmasters for appeal: eight to the Crown Court and 43 cases to the Court of Appeal. The Crown Court quashed the convictions of six postmasters back in December 2020, and 42 further appeals were heard in the Court of Appeal in late March.

[Lord Sharkey]

The Court of Appeal was asked in late March to decide whether the convictions of those postmasters were safe based on two grounds of appeal; namely, whether the prosecutions were an abuse of process either because of the postmaster being unable to receive a fair trial or because of its being an affront to the public conscience for the postmaster to be tried. On Friday, the Court of Appeal announced its judgment. The Court decided to quash the convictions of 39 postmasters. The Court of Appeal also concluded that the failures of investigation and disclosure were so egregious as to make the prosecution of any of the Horizon cases an affront to the conscience of the court. In the remaining three cases, the convictions were found to be safe.

In response to the Court of Appeal judgment, the Post Office has apologised for serious failings in historical prosecutions. Tim Parker, the Post Office chair, has said that the Post Office is

'extremely sorry for the impact on the lives of these postmasters and their families that was caused by historical failings.'

The Government recognise the gravity of the court's judgment in those cases and the hugely negative impact that the convictions have had on individual postmasters and their families, as has been highlighted on a number of occasions in this place. The journey to get to last Friday's Court of Appeal judgment has unquestionably been a long and difficult one for affected postmasters and their families, and the Government pay tribute to them for their courage and tenacity in pursuing their fight for justice. The Government also pay tribute to colleagues across the House who have campaigned tirelessly on their behalf.

However, while the Court of Appeal decision represents the culmination of years of efforts by those postmasters, it is not the end of the road. The Post Office is already contacting other postmasters with historical criminal convictions between 1999 and 2015 to notify them of the outcome of those appeals and provide information in respect of how they could also appeal. The Post Office's chief executive officer, Nick Read, is also leading a programme of improvements to overhaul the culture, practices and operating procedures throughout every part of its business. The Government continue to closely monitor delivery of those improvements. The changes are critical to ensure that similar events to these can never happen again.

Last week, the Post Office announced the appointment of two serving postmasters, Saf Ismail and Elliot Jacobs, as non-executive directors to the Post Office board. I wholeheartedly welcome those appointments. Their presence on the Post Office board will ensure that postmasters have a strong voice at the very highest level in the organisation. As part of the 2019 settlement, the Post Office also committed to launch a scheme to compensate postmasters who did not have criminal convictions who had suffered shortfalls because of Horizon, and who were not party to the 2019 settlement. The Post Office established the historical shortfall scheme in response.

The number of applications to that scheme was much higher than anticipated. Consequently, in March 2021, the Government announced that they would provide sufficient financial support to the Post Office to ensure that the scheme could proceed, based on current expectations of the likely cost. Payments under the scheme have now begun, and the Government will continue to work with the Post Office to see that the scheme delivers on all of its objectives, and that appropriate compensation is paid to all eligible postmasters in a timely manner.

While those are positive steps in the right direction, the Government are clear that there is still more to do. Postmasters whose convictions were quashed last week will also now be turning to the question of appropriate compensation, which I know will again be of great interest to the House. The judgment last week will require careful consideration by all involved. The Government want to see all postmasters whose convictions have been overturned fairly compensated as quickly as possible, and we will work with the Post Office towards that goal. I commit to keep the House informed on this matter going forward.

Finally, it is essential that we determine what went wrong at the Post Office during this period to make sure that a situation such as this can never happen again. To ensure that the right lessons have been learned and to establish what must change, the Government launched an independent inquiry, led by ex-High Court judge Sir Wyn Williams, in September last year. The inquiry has made swift progress already, having heard from a number of affected postmasters, and a call for evidence has recently closed. The inquiry is now planning public hearings. The Horizon dispute has been long-running. For the benefit of everyone involved, it is important that the inquiry reaches its conclusions swiftly. I look forward to receiving Sir Wyn's report later this summer. As the Prime Minister said, lessons should and will be learned to ensure that this never happens again."

6.04 pm

Baroness Hayter of Kentish Town (Lab): I start by paying tribute to the noble Lord, Lord Arbuthnot, and others, including "Panorama" and Nick Wallis on Radio 4, whose championing of the postmasters' cause helped, finally, to move this towards a just outcome.

Like other noble Lords, I have heard this dismal story many times, but I still have that mixture of shock, horror, shame and some anger with every new hearing. How is it possible that no one in a position of authority noticed that, all of a sudden, hundreds of some of the most upright and respected members of local communities had, almost at the same time, taken it on themselves to start pilfering? How come nobody thought to ask some simple questions? How come the Post Office, adding insult to injury, continued to pursue loyal employees, often with expensive lawyers, long after it was clear that something was amiss? This has been perhaps the most widespread legal miscarriage of justice that I know of; justice has been a long time coming.

Naturally, we welcome the Court of Appeal's ruling overturning the convictions of 39 postmasters, but, as Lord Justice Holroyde said, the Post Office

"knew there were serious issues about the reliability of Horizon"

and had a "clear duty to investigate" the system's defects. Despite this, the Post Office

"consistently asserted that Horizon was robust and reliable",

and

"effectively steamrolled over any sub-postmaster who sought to challenge its accuracy".

Was the Post Office not curious about this sudden outbreak of illegality? Did it not read the specialist press? As early as 2015, possibly before, *Computer Weekly* was warning of problems and, even worse, it now reports that Fujitsu bosses knew about Horizon's flaws all along, yet allowed it to be rolled out to the Post Office network, despite being told that it was not fit for purpose. Back in 2019, a High Court judge ruled that Horizon was "not remotely reliable" for the first 10 years of its existence, which was obvious to Fujitsu and surely evident to the Post Office. Even when the Post Office knew that there were "serious issues" about the reliability of the system, it continued bringing

"serious criminal charges against the sub-postmasters on the basis of Horizon data"

and "effectively steamrolled" anyone who challenged its accuracy.

Even after the High Court vindicated postmasters in 2019, the Government refused to intervene, allowing the Post Office to abuse its power over postmasters. Will the Minister acknowledge the Government's failure of oversight?

The Post Office let individual postmasters pay a terrible price for its incompetence and cowardice. Seema Misra, falsely accused of stealing £75,000, was sentenced to 15 months in jail while pregnant with her second child. Rubbina Shaheen, accused of stealing over £40,000, spent 12 months in jail. Jo Hamilton, accused of taking £36,000, gave up her shop and, because of her criminal record, found it impossible to get another job. While these convictions have finally been quashed, the hurt, damage and enormous costs remain—to say nothing about those who died before they could be vindicated by last week's ruling.

So there are questions that the Government must answer. Why are Ministers refusing a statutory inquiry, with subpoena powers and a remit to consider compensation? Given that postmasters are having to spend some of their compensation on legal fees, will the Minister confirm that additional support will be made available to cover such costs? What steps will the Government take to hold Fujitsu to account? Given that it was found to be complicit in covering up the software bugs that led to the false Post Office prosecutions, will it be asked to pay for the monstrous damage that it has done to hundreds of lives?

Given the acknowledgement in the Minister's letter that steps need to be taken to ensure fair compensation, will he promise—not just undertake, but promise to this House—that it will be done speedily, generously and with no more of the foot-dragging that has besmirched this whole saga? Does the Minister agree that there should now be a criminal investigation into potential wrongdoing, given the knowing cover-ups that led to false prosecutions?

There is one other point I want to make. These postmasters were criminalised by a culture that assumed that technology is infallible and workers dishonest. Given that in future, technology will play an ever-larger role in the world of work, stringent protections will be needed against this "computer says" culture. We must not get to the point where directors, and Governments, automatically side with technology over their workers—or, indeed, over claimants or consumers. If ever technology is trusted without question, or there is inadequate human oversight and challenge, I fear that this will not be the last time that individuals are unfairly treated by a Big Brother who is neither infallible nor accountable.

This has been a sad story. It now rests with the Government to provide fast and full compensation, and to put right the ills that many people have suffered.

Lord Fox (LD): My Lords, I thank the Minister for bringing this Statement to your Lordships' House, and for his two letters to all Peers over the last five weeks. I should say that I have been a member of the Post Offices APPG for some time.

Looking back, the Government have said that they will determine what went wrong. Of course, we absolutely support that. To this end, their route has been to ask Sir Wyn Williams to lead the Post Office Horizon IT inquiry. The inquiry, they say, will work

"to fully understand these events, gather available evidence and ensure lessons have been learnt so that this cannot occur again."

I am sure that this will be a thorough investigation, which will shine a bright light on systems and programmes, and their implementation. But can the Minister reassure us that it will also illuminate the overriding issue of how this business behaved? As the noble Baroness, Lady Hayter, has just eloquently set out, the moral shortcomings of the management are central to why this happened. To fully understand this issue, as the Government want to, they need a thorough appraisal of the management culture of the Post Office. It is changing the culture that makes sure that something never happens again, not updating an operating system or rewriting a computer programme.

Can the Minister please make available the full terms of reference according to which Sir Wyn will conduct his inquiry? Government communications include the phrase:

"The Government look forward to receiving Sir Wyn's report in the summer".

Does the Minister expect the report to be completed by this summer, or have I misunderstood? If so, what support will the investigation have to run to such a tight timetable? I am concerned because this is not a statutory inquiry. What will happen if individuals retain lawyers to represent their interests? How will Sir Wyn proceed in those circumstances?

I echo the praise given by the noble Baroness, Lady Hayter, to the noble Lord, Lord Arbuthnot of Edrom. He has tenaciously pursued this issue, and in February last year he asked a question of the then Under-Secretary of State at BEIS, the noble Lord, Lord Duncan of Springbank:

"To ask Her Majesty's Government what recent assessment they have made of the Post Office's powers to conduct prosecutions."-

The response was that

"the Post Office's powers to bring a private prosecution, which fall under section 6(1) of the Prosecution of Offences Act 1985, are not specific to that company."—[*Official Report*, 4/2/20; col. 1709.]

I forewarned the Minister that I would bring this up, because my understanding is that while it has not been granted investigative powers, the Post Office has

[Lord Fox]
regularly undertaken joint investigations with the police and other investigative bodies that do have statutory investigating powers. It was granted access to the national police computer system for intelligence and prosecution purposes; it had financial investigators appointed by the National Crime Agency for the purpose of undertaking financial investigations for restraint and confiscation proceedings; and Royal Mail was included in the list of relevant public authorities, under the Regulation of Investigatory Powers Act 2000, designated to grant authorisations for the carrying out of directed surveillance to investigate crime. The Minister's views on that would be welcome. Is it really still appropriate that this organisation should enjoy those powers?

This is by no means the end of the road, as the Statement makes clear. In yesterday's debate in the House of Commons, my honourable friend Christine Jardine MP asked the Parliamentary Under-Secretary, Paul Scully, to give an assurance that the Government will commit to treating each of the former sub-postmasters as individuals. The Minister acknowledged that, as well as those prosecuted, there were those whose lives had been blighted by incorrect accusations. I am pleased to report that he acknowledged the human cost. However, it is not clear to me what this acknowledgment means in practice. How will the Government embark on treating everybody individually? As part of the settlement, we have the historical shortfall scheme and it has been explained that this had received over 2,400 applications when it closed last August. First, although this is more than the Post Office anticipated, is the Minister satisfied that everybody who could have applied for this was aware of it and did? Secondly, the Minister was clear that Her Majesty's Government will support the Post Office with resources. We of course endorse that. We do not yet know what form compensation will take and how it will be calculated. However, in a Written Answer, the noble Lord, Lord Callanan, said:

"we will not spend more of taxpayer's money than is necessary to ensure that the Scheme meets its objectives."

That sounds like a management expectation exercise and is a bit ominous. This is not an area, or a time, for penny pinching.

However financially generous the scheme turns out to be, the Government have to be clear that they can never fully compensate for the emotional and social damage that has been visited on many thousands of innocent people in this country.

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Callanan) (Con): I thank the noble Baroness, Lady Hayter, and the noble Lord, Lord Fox, for their comments. I completely share many of their sentiments of shock and outrage. The tragic failings of the Post Office have occurred over many years, over many different Governments. On behalf of the current Government I can only say that we are truly sorry.

We welcome the decision of the Court of Appeal on 23 April to quash the 39 convictions. This is in addition to the six convictions that were quashed in the Crown Court in December. The impact that this ordeal has had on affected postmasters, their lives and livelihoods cannot be overstated. Nobody who saw the television coverage and the news reports the other day can fail to have been affected by the individuals featured. We certainly hope that, with this decision, these postmasters can at least start the process of moving forward to a new chapter in their lives.

I move on to the specific issues raised by the noble Lords. On compensation, the Government hope that the court's decision is another important step towards bringing resolution to these postmasters. The Court of Appeal's judgment will require careful consideration by all involved, and the Post Office itself will need to consider the next steps and the best process for fairly compensating these postmasters. We are keen to see that all those whose convictions are overturned are fairly compensated as quickly as possible and we will certainly work with the Post Office towards this goal. I understand the strength of feeling felt by those postmasters in the GLO who I understand only received a portion of the original £57.75 million settlement by the Post Office. However, that was a full and final settlement reached between the claimants in the GLO and the Post Office.

Both noble Lords mentioned the inquiry. Many postmasters and their families have suffered issues and distress since the faults in the Horizon system. We all agree on that. Some had their livelihoods and businesses taken away and were convicted of crimes that we now know they did not commit. Anybody can only imagine the distress that that must have caused to loyal, upstanding and honest members of the community. We are clear that a situation such as this must never, ever be allowed to happen again.

To ensure that the right lessons are learned, and to establish what must change, we launched an independent inquiry, led by Sir Wyn Williams, in September last year. He is a retired High Court judge with a wealth of experience and is fully independent of both the Government and the Post Office. I can tell the noble Lord, Lord Fox, that the inquiry has made swift progress. It has already heard from a wide group of affected postmasters. The call for evidence has recently closed and I understand that Sir Wyn is planning to have some public hearings on these matters in June. I can confirm that we expect to get his report by the end of the summer.

Given that all parties so far are committed to co-operating, we remain of the view that a non-statutory inquiry is the right approach. However, if Sir Wyn does not get the co-operation he requires, then all options are on the table and we will not hesitate to act. We do expect his report in the summer.

On who is to blame, decisions regarding the litigation strategy at the time were taken by the Post Office based on the legal advice that it had received. The Government at the time relied on the Post Office's management to investigate issues with the Horizon system. As we have seen from both Mr Justice Fraser's judgment and now the Court of Appeal judgment, the Post Office consistently maintained that the Horizon system was robust. That obviously turned out to be incorrect. What is also clear, from the Court of Appeal judgment last week and the judgments in the 2019 group litigation, is just how misguided the Post Office was in its approach to

the management of issues arising from the operation of the IT system. All of these matters will be investigated in the inquiry, so that we can ensure this never happens again. I commit to keeping the House fully informed.

The noble Lord, Lord Fox, raised the issue of private prosecutions. The Post Office no longer undertakes any private prosecutions, and I have been personally assured by the new chief executive that it has no plans to undertake any further prosecutions in these matters. However, the Government understand the wider challenge that the Post Office case poses regarding the responsibilities that companies have in undertaking private prosecutions. The Justice Select Committee considered this last year and concluded that prosecutions brought by victims of crime themselves, whether corporate or individual, still have a valuable part to play. The Select Committee concluded that existing safeguards in place to regulate private prosecutions are effective at filtering out weak claims. As the noble Lord, Lord Fox, himself acknowledged, the Post Office's powers to bring private prosecution fall under Section 6(1) of the Prosecution of Offences Act 1985, and they are not specific to that company. It has the same right as any other, whether an individual or a company, to bring a private prosecution but, as I said, I have been assured that it has no plans to bring any further prosecutions.

The noble Lord, Lord Fox, was kind enough earlier today to mention the issue of the Post Office and its investigatory powers. Since he did, I have asked my officials to investigate this matter. There are, apparently, over 600 public authorities that can use investigatory powers, and these are overseen by the Investigatory Powers Commissioner's Office. There have been no changes to the authorities that the IPCO oversees since the introduction of the Investigatory Powers Act. According to the IPCO 2019 annual report, Post Office Ltd is not on that list.

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.

6.23 pm

Lord Mackay of Clashfern (Con) [V]: My Lords, this is a situation in which the Post Office used our system of justice to produce a massive injustice. I would like to know who represented the Post Office in these proceedings, whether they had any reason to doubt the validity of the evidence that the Post Office produced and, if so, whether that was passed to the defence.

Lord Callanan (Con): My noble and learned friend makes some very good points. Given that some of these initial prosecutions happened, in some instances, 20 years ago, the fact is that the Post Office representation changed a number of times. It is difficult to provide a complete answer to my noble and learned friend's questions. Postmasters were prosecuted by the in-house legal teams of the Post Office and, before that, by the Royal Mail, and they were supported by external counsel as needed. It is important to emphasise that none of these prosecutions involved any current Post Office lawyers, nor that of Peters & Peters, which is the criminal lawyers firm now supporting the Post Office to address these issues. I am unable to say what prosecutors thought at the time. However, as my noble and learned friend is of course well aware, prosecutors have a duty to disclose to the accused material that could reasonably be considered capable of undermining the prosecution case or assisting the defence case.

Lord Pannick (CB): The Minister spoke of fair compensation. Is he aware that the statutory test for compensation for miscarriages of justice is much stricter than simply showing that the Court of Appeal has quashed a conviction as unsafe? The statutory test would impose a burden on postmasters to prove beyond reasonable doubt that they did not commit the alleged offence. Can the Minister assure the House either that this onerous statutory test will not be applied to restrict compensation or that the statutory test will be treated as satisfied in all these cases? Any other approach would compound the wrong done to these postmasters.

Lord Callanan (Con): The noble Lord makes a powerful point. Of course, the judgment is relatively recent and no decisions have been taken regarding compensation, so I cannot give him any specific commitments today. However, I repeat that we are keen to see that all postmasters whose convictions are overturned are fairly compensated as quickly as possible. I know that the issue of compensation will be of great interest to the House, and I commit to update the House on this matter whenever it is appropriate.

Lord Mendelsohn (Lab) [V]: My Lords, as a businessman, I am embarrassed that our culture of corporate governance and a failure of corporate leadership has directly ruined the lives of the innocent. As Mr Justice Fraser's judgment lays bare, this includes the fact that they defended an untenable case, and how they did it shows how hollow and disingenuous even the current statements by the Post Office should be seen. The positions of the chairman and CEO are difficult to justify. Can the Minister provide assurance that the serious questions this raises about the position of every member of the current board, and indeed the responsibility of all members since the board was first presented with problems in the system nearly a decade ago, can be fully examined without a statutory inquiry? Can he also assure us that the Government are now willing to provide a full statement relating to what they were told and their actions and role as shareholder? Their apparent failure to provide vigorous challenge to the board meant that this scandal has carried on for as long as it has and illustrates a likely flaw in the Government's role as a shareholder in this and potentially other circumstances.

Lord Callanan (Con): I can give the noble Lord the assurance he asked for in the first part of his question: Sir Wyn, as part of his evidence gathering, is looking at the issue of corporate governance, where it is clear that there are some serious questions that need to be answered. On his question about the role of the shareholder, as I have said before on a number of occasions in this place, the Government pressed the management at the time on issues regarding complaints brought by sub-postmasters about Horizon, and we

[Lord Callanan]
received repeated assurances that the system was reliable. Of course, the Court of Appeal opined that the Post Office had consistently asserted that Horizon was robust and reliable at the time.

Baroness Neville-Rolfe (Con): Having been a Minister in the business department whose responsibilities included the Post Office for a period, I join others in congratulating the postmasters and the courts on restoring justice. I have always been much troubled by these cases and the tenacity of the Post Office in defending the integrity of its IT systems—now shown to be wholly unjustified—and by the fact that the Post Office was both investigator and prosecutor, which has already been touched on. Does my noble friend the Minister agree that, while being extremely important and useful, the criminal cases review process is far too slow? As part of lessons learned, will he follow up with the Ministry of Justice and explore the case for statutory deadlines or other incentives for speed? People's lives have been wrecked for literally decades.

Lord Callanan (Con): I will certainly pass on the noble Baroness's comments on the speed of the justice system to the Ministry of Justice. I am sure there are many other areas where we would all like to see speedier justice.

The Deputy Speaker (Lord Alderdice) (LD): The noble and right reverend Lord, Lord Harries of Pentregarth, has withdrawn, so I call the noble Lord, Lord Stevenson of Balmacara.

Lord Stevenson of Balmacara (Lab) [V]: My Lords, the Minister has confirmed that the inquiry—although, technically, I think it was originally called a review—is looking at corporate governance issues, and that is welcome. Could he answer two specific questions? Have the Government submitted any evidence already in the response to the call for evidence? If not, why not? Secondly, does Sir Wyn have the powers to subpoena information from the Government if it turns out that he requires that?

Lord Callanan (Con): The Government are committed to fully cooperating with Sir Wyn's inquiry; whatever information or access he needs will of course be provided. I am not sure whether we have submitted evidence, but I will certainly get back to the noble Lord on that. As I said, the inquiry is making swift progress and we look forward to receiving Sir Wyn's report. However, as I said in my earlier remarks, if there are instances of any stakeholder in this area not co-operating, we will certainly not hesitate to take further action.

Baroness Stuart of Edgbaston (Non-Afl): My Lords, the tragedy of this case is not just the length of time it took to put this wrong right but the number of players who individually felt they had nothing to answer for other than just to say that they were sorry, which is not sufficient. We need to find out why this happened.

I return to the issue of the Criminal Cases Review Commission. It was set up as a royal commission to speed up the process in the wake of the Guildford Four, the Birmingham Six and a number of serious miscarriages of justice. When you look up the funding structure of that body over the years, we see a combination of increased workload and reduction of funding. The very least that we can do is to fund it so that it can perform its function as it was set up to do, and not allow this sub-postmasters miscarriage of justice to be added to that list of grave injustices which have not been righted in the proper way.

Lord Callanan (Con): As I said in my answer to the noble Baroness, Lady Neville-Rolfe, we support the work of the Criminal Cases Review Commission, which does some powerfully valuable work in its independent investigating of possible miscarriages of justice. I know that it has worked hard to complete the review into the Post Office Horizon cases with the necessary speed and thoroughness. However, as I said to the noble Baroness, Lady Neville-Rolfe, we will pass on the remarks of a number of noble Lords to the Ministry of Justice to see what more can be done to support its work.

Lord Arbuthnot of Edrom (Con) [V]: My Lords, the Post Office and the Government have expressly excluded the 555 group litigants from the compensation scheme. Nick Read, the chief executive of the Post Office, has called on the Government to compensate the 555 fairly. Are the Government considering compensating all the 555 litigants—as they should, because they have taken their money and should not be keeping it—or are they limiting compensation to those whose appeals have succeeded? Should not Sir Wyn Williams have considered this in his inquiry?

Lord Callanan (Con): I start by paying tribute—as have a number of other noble Lords—to the tireless work that my noble friend has undertaken on behalf of the sub-postmasters in this case. His is a splendid example of some of the fine work that is done by many Members of this House in tenaciously seeking to draw attention to tremendous miscarriages of justice, and he has done a good job. I know we have spoken a number of times about it when he has drawn attention to these issues. I understand the strength of feeling felt by the postmasters in the GLO who, we have all come to understand, received only a portion of the £57.75 million settlement paid by the Post Office. However, that was a full and final settlement that was reached between the claimants. For postmasters who have convictions overturned, we are keen to see that they are fairly compensated as quickly as possible, and we will certainly work with the Post Office towards that goal. Given that the Court of Appeal judgment is an important development since the launch of the inquiry, I am sure that Sir Wyn Williams will want to note this in the final report on his inquiry.

Lord Berkeley of Knighton (CB) [V]: My Lords, it is a great shame that the Post Office did not approach this with the same sense of admirable humility as does the Minister, who is able, for example, to say, "We got it wrong." I endorse what my noble friend Lord Pannick said. Would the Minister agree that it would be adding insult to injury—in fact, injury to injury—if these victims had to prove what had gone on? In addition, does the Minister feel that he and the Government have learned enough already that, if they were to discover something similar going on elsewhere, they would now be able to intervene much faster?

Lord Callanan (Con): I cannot really add anything to the answer I gave the noble Lord, Lord Pannick. On the noble Lord's second question, I would certainly hope that, if the situation arose in any of the arm's-length bodies for which I am responsible as a Minister, I would ensure that attention was brought to it and the appropriate lessons drawn as quickly as possible. I hope that those in wider government have also learned the lesson of this sad and tragic case.

Baroness Stowell of Beeston (Non-Afl): My Lords, my point picks up on that just made by the noble Lord, Lord Berkeley. As horrified as we all are at this miscarriage of justice, what is also shocking to everybody is just what it tells us and shows us about the arrogance of those of us in positions of authority when we are faced with something that is so obviously wrong and has been brought to us by the general public. I understand what the Minister is saying about a statutory inquiry and the inquiry that Sir Wyn is doing at the moment. However, will he consider and express to us his understanding of the reasons why there is that lack of confidence from the sub-postmasters and many others in the robustness and validity of the review that is under way and the need for more reassurance that other steps can be taken if accountability and responsibility is not shown through that process?

Lord Callanan (Con): The noble Baroness makes an important point: it is vital to get the buy-in and support of the postmasters for the operation of the inquiry. I hope that we will get that. If there are any shortcomings in the process of the inquiry, we will not hesitate to go further, if necessary. My understanding is that the inquiry is proceeding well. Sir Wyn is getting on with his work; he is a well-respected judge in this field, and will hold some public hearings in June, which will, we hope, draw more attention to these matters. We will keep it under review, and I hope he will get the support of the postmasters, because that is vital to ensure that the inquiry is robust.

Lord Harris of Haringey (Lab) [V]: The Minister said that the Horizon IT system had "real problems". That is a huge understatement, given the misery caused to hundreds of sub-postmasters who had been serving their communities for many years. The Statement says nothing about Horizon's manufacturer, Fujitsu, a company that continues as a trusted partner of HMRC, the Department for Education, the Cabinet Office, the Home Office, the Ministry of Defence and no doubt many other government departments. The NHS had to sack Fujitsu for a huge IT programme which, like Horizon, did not work. The company's response was to demand £700 million in compensation. The Minister did not answer my noble friend Lady Hayter's question: how much compensation will Fujitsu be paying those whose lives it knowingly wrecked with its Horizon software? What assessment have the Government made of what this scandal says about other Fujitsu software embedded in so many government departments?

Lord Callanan (Con): Fujitsu has been rightly and severely criticised in much of the judgment, but the noble Lord will understand that compensation from Fujitsu is a contractual matter between the Post Office and Fujitsu. I am pleased by and welcome the fact that Fujitsu continues to co-operate fully with Sir Wyn's inquiry. The noble Lord is right to say that Fujitsu provides a range of services across government and, of course, many parts of the private sector. We are not at the moment aware of any other problems in its systems.

Lord Mackenzie of Framwellgate (Non-Afl) [V]: My Lords, I thank the Minister for his update today, which is helpful. One of my passions throughout a long police career was the fight for justice and to put right miscarriages. This case has caused personal tragedy to hundreds of people through family breakup, bankruptcy and loss of liberty on an industrial scale. Some, of course, have since died. For example, why did nobody join the dots when deficits were occurring throughout the Post Office estate following the installation of the new Horizon IT system, and why was it kept secret? Does the Minister think it is now time for those who took the decisions at the top of the Post Office all those years ago to be called to account, so the matter can now be closed? Has Sir Wyn Williams got powers to summon witnesses and seize written evidence? If not, surely it requires nothing less than a full statutory inquiry, with powers to determine who knew what and when, so that fair compensation can be awarded to allow all the victims of this massive miscarriage of justice to get on with their lives.

Lord Callanan (Con): As I said in previous answers, we are keen to see that all postmasters whose convictions are overturned are fairly compensated as quickly as possible, and we will work with the Post Office towards this goal. On the noble Lord's comments about the inquiry, the problem with a full statutory inquiry is that it could take many years to report. The current inquiry is going well; everyone is co-operating and we should be able to get a report in the summer. I think it is better for all concerned that we have the report, so that we learn the lessons that have to be learned as quickly as possible, rather than waiting years—but, as I say, we are not ruling anything out. If there is any lack of co-operation that we need to address, we will not hesitate to go further.

Lord Forsyth of Drumlean (Con) [V]: My Lords, given that people have lost their livelihoods, liberty and even lives as a result of the incompetence and bureaucratic bullying, does my noble friend really think it is enough, after 20 years of injustice, for the Post Office to apologise for historical failings and recruit two NEDs, and for the Government to compliment the victims on their tenacity and offer the cliché that lessons will be learned? Why has no one been held to account and why, as the noble Lord, Lord Harris, just asked, is Fujitsu, the producer of the dodgy Horizon software, not paying for the damage it caused and repeatedly denied? Will my noble friend return to the question asked by my noble friend Lord Arbuthnot, who has done so much in this area, about why the 550 people are not to be included? As for the argument that there was an agreement signed—it was an agreement signed before people knew of the scandal of the way the Post Office was behaving.

Lord Callanan (Con): I totally agree with the noble Lord that, of course, words are never enough, and we are keen to see that those whose convictions were

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overturned are fairly compensated. I cannot make any commitments on funding at this stage; it is for the Post Office to engage with the appellants in the first instance as to how compensation can be paid as quickly as possible. The inquiry is doing its work, we will see the report in the summer when it is produced and we will learn all the appropriate lessons.

Lord Browne of Ladyton (Lab) [V]: My Lords, the Metropolitan Police are conducting an ongoing investigation into Fujitsu workers after Mr Justice Fraser wrote to the DPP expressing grave concern about the evidence provided in earlier court hearings. Does what we already know about this appalling miscarriage of justice not justify a wider police investigation? Will the Government not call for one?

Lord Callanan (Con): The noble Lord will notice that I have avoided commenting on any potential police investigation, for very good reasons that he will understand. However, I hope the investigation will reach speedy conclusions and the police will take the appropriate action.

The Deputy Speaker (Lord Alderdice) (LD): We have come to the end of the 20 minutes and I regret that two noble Lords who were actually in the Chamber were unable to ask their questions.

Carrier Strike Group Deployment

Statement

The following Statement was made in the House of Commons on Monday 26 April.

"I would like to make a Statement on the forthcoming deployment of the carrier strike group. Before I do, I wish to send my condolences to the Indonesian navy and the families of the ship's company of KRI Nanggala following the tragic news that the submarine has been lost. I know the sorrow is felt particularly strongly within our own Royal Navy submarine community, who understand the risks faced by their friends all too well. The United Kingdom stands ready to help our Indonesian colleagues in any way we can going forward.

The UK has a long history of involvement in the Pacific. This year, we celebrate the 50th anniversary of our five power defence arrangements between the United Kingdom, Malaysia, Singapore, Australia and New Zealand. Few outside military circles are familiar with the relationship, despite the fact that it is Asia's most enduring military multilateral arrangement. It is a partnership that has grown in scope to cover everything from humanitarian assistance and disaster relief to counterterrorism and maritime security. It is a partnership based on the common shared values of tolerance, justice and the rules-based order. But even as the Pacific's importance to our future economy continues to rise, so the challenges to the freedom of navigation in that region continue to grow. Our trade with Asia depends on the shipping that sails through a range of Indo-Pacific choke points, yet they are increasingly at risk whether from hostile state actors or from piracy on the high seas.

We have to be clear to any who wish to challenge our international rules-based system that the laws must be upheld. But our partnership gives us strength. Friendship is the one thing that our adversaries lack and we deliver a powerful message of strength when we show our solidarity. That is why in recent years we have begun returning to the East. The UK now has a persistent presence in the region through British Forces Brunei, a regional and logistics hub in Oman and our maritime component command in Bahrain.

Our carrier strike group gives us something different. HMS 'Queen Elizabeth' is a floating piece of sovereign territory that can sail over 70% of the world's surface. It is probably the most guarded UK airfield to be found. It gives the Government unprecedented options to act independently against hostile forces on land or at sea for months without having to access bases ashore. It is a warship, a mothership, a surveillance reconnaissance ship, a convener of allies and partners, and a great projector of Britain's soft and hard power.

The UK has a proud history of being a carrier nation. Those legendary Second World War vessels HMS 'Courageous', 'Glorious', 'Illustrious', 'Ark Royal', 'Formidable' and 'Indefatigable' are synonymous with the unquenchable spirit of our people. Carriers have also continued to play a defining role in our nation's history well into the modern era. Those who recall the Falklands War will not forget the fundamental role that HMS 'Hermes' played in providing air cover for the vulnerable task force while 8,000 miles away from home. The career of our last carrier, HMS 'Illustrious', spanned some 900,000 miles and took in service from Bosnia to the Gulf and Sierra Leone.

British ingenuity has long driven carrier innovation forward, from the angled flight deck to the ski jump developed for the Sea Harrier, but our newest carriers provide a true step change in capability. One can only appreciate the sheer enormity of each vessel when standing on its vast deck, as I did this morning. At 65,000 tonnes, HMS 'Queen Elizabeth' and her sister ship, HMS 'Prince of Wales', are the most powerful surface ships ever constructed in Britain. Longer than Parliament and taller than Nelson's column, she has a range of more than 10,000 nautical miles and can fly 72 fast jet sorties per day. This is British engineering at its best: a supreme example of a national endeavour, built by six dockyards—Appledore, Birkenhead, Govan, Portsmouth, Rosyth and Tyne. A cast of more than 10,000 took part in the construction. Some 8,000 apprentices helped complete the major construction in almost five years. Hundreds of small companies lent their niche capability, and 90% of those suppliers came from the United Kingdom.

The carrier does not operate alone, however. She will be surrounded by a ring of capability: Type 45 destroyers HMS 'Defender' and HMS 'Diamond', Type 23 anti-submarine frigates HMS 'Kent' and HMS 'Richmond', and tanker and storage ships 'Fort Victoria' and RFA 'Tidespring'. We will also be accompanied by the Dutch frigate HNLMS 'Evertsen', and the US Arleigh Burke destroyer 'The Sullivans'.

Our carrier's cutting edge is located on the flight deck, with the renowned RAF 617 Squadron, the Dambusters, operating eight world-class, fifth-generation,

F-35B Lightning II fast jets, partly made, I am proud to say, in Lancashire. While 815 Naval Air Squadron will pilot four Wildcat maritime attack helicopters, 820 Naval Air Squadron will fly seven Merlin Mk2 anti-submarine and airborne early warning helicopters, three of which will be fitted with the new Crowsnest, and 845 Naval Air Squadron will operate three Merlin Mk4 commando helicopters. Below deck, a company of 42 Commando Royal Marines will be embarked, while in the ocean depths, a Royal Navy Astute-class attack submarine will deploy in support.

Over the coming 28 weeks, from May to December 2021, we will see our carrier strike group travel over 26,000 nautical miles from the Mediterranean to the Red Sea, from the Gulf of Aden to the Arabian Sea and from the Indian Ocean to the Philippine Sea. Besides the full integration of units from the UK, US and the Netherlands, the carrier strike group will operate with air and maritime forces from a wide number of international partners, including Australia, Canada, New Zealand, France, Japan, the United Arab Emirates, Denmark, Greece, Italy, Turkey, Israel, India, Oman and the Republic of Korea.

The deployment will see the units of the strike group visiting more than 40 countries and undertaking more than 70 engagements, visits, air exercises and operations. Critically, these events will provide excellent opportunities for the UK to develop new and existing trade and political links, particularly in the Indo-Pacific. Not only will we meet our commitment to UN-mandated operations in the region but, 50 years on from the creation of the five power defence arrangements, we will further augment our friendship by participating in Exercise Bersama Lima. Meanwhile, units from the strike group will visit Association of Southeast Asian Nations partners as part of our commitment to a more enduring regional defence and security presence. Four major stops on the Indo-Pacific leg of their journey will be Singapore, the Republic of Korea, Japan and India. It will help tighten our political ties in the region. In late summer, we will host our first Pacific future forum in Korea.

Meanwhile, China is increasingly assertive, building the world's largest maritime surface and sub-surface fleets. However, we are not going to go to the other side of the world to be provocative. We will sail through the South China Sea. We will be confident, but not confrontational. More often than not, the carrier group will be in the eastern Mediterranean or the Atlantic, carrying out our duties in support of NATO. As part of this deployment, our strike group will be in the Middle East, conducting bilateral exercises and engagement with our long-standing defence and security partners, confirming our commitment to a lasting stability.

Critically, in Europe, our carrier strike group will demonstrate the UK's enduring commitment to the NATO alliance—the cornerstone of our defence—by participating on this deployment in NATO-level exercises such as Exercise Steadfast Defender. Not only will there be a period of dual carrier operations with the French aircraft carrier 'Charles de Gaulle' in the Mediterranean, but elements of the strike group will support NATO missions in the Black Sea region, demonstrating that we do not go alone to deter a tier 1 power; we go as NATO.

The contribution of the United States to the rebirth of UK carrier strike has been immense, but our carrier strike group will take our integration with our US partners to a new level. We will have the Arleigh Burke-class destroyer USS 'The Sullivans' providing the strike group with air defence and anti-submarine capabilities, not to mention a squadron of 10 US Marine Corps F-35B Lightnings—the Wake Island Avengers—flying side by side with their UK counterparts from the decks of the 'Queen Elizabeth'. This is the largest air group of fifth generation fighters ever put to sea, as well as the greatest quantity of helicopters assigned to a single task force in a decade.

It has been a year since the last Royal Navy ship deployed to the Pacific. It has been more than seven years since the last carrier—HMS 'Illustrious'—deployed there as well. It has been more than 20 years since the last carrier strike group deployed to that region. Our carrier strike intends to return us to that presence."

6.43 pm

Lord Tunnicliffe (Lab) [V]: My Lords, we welcome this first major deployment of the "Queen Elizabeth". The "Queen Elizabeth" and the "Prince of Wales" are the most powerful surface ships ever constructed in Britain. They will strengthen our maritime forces for decades to come, and this maiden mission for the "Queen Elizabeth" is a great achievement for the Royal Navy and a proud moment for our country. Britain has not had a carrier strike force since 2010, when the defence review scrapped all three of our aircraft carriers. This deployment fills a big gap in Britain's military capability over the past decade. I hope the Minister can confirm that the "Queen Elizabeth" is fully crewed and that the carrier strike group is fully combat ready.

The successful design and build of our two new aircraft carriers is a tribute to the UK's shipbuilding industry and our UK steelmakers. Can the Secretary of State confirm how much UK-produced steel will be used in the new Type 26s, Type 31s, Astute, Dreadnought and fleet solid support ships?

The new *Defence and Security Industrial Strategy* states that the Government will publish an updated shipbuilding strategy which

"will set out how the government intends to create the conditions for success for all parts of the enterprise, from shipyards building warships".

Can the Minister update the House on when the new strategy will be published and how we will be able to monitor its success? This is a big opportunity to back British industry and jobs. The carrier strike group will sail east with the support of US and Dutch naval warships, and with US F-35 fighters on board. It is good that the HMS "Queen Elizabeth" sails with allies, but it is not good if she can sail only with allies. When, if ever, will there be enough British warships to sail with our own British carriers?

This deployment comes on the back of the integrated review, which rightly said that Russia remains

"the most acute threat to our security".

[Lord Tunnicliffe]
Can the Minister confirm that the return of HMS "Queen Elizabeth" to military business will involve patrolling the north Atlantic, the high north and the Mediterranean, our NATO area, where Russia poses the greatest threats to our vital national interests?

Baroness Smith of Newnham (LD) [V]: My Lords, like the noble Lord, Lord Tunnicliffe, I welcome the fact that HMS "Queen Elizabeth" is now ready to lead the carrier strike group. Clearly, we are in a new phase of British maritime history. We are obviously in a phase in which the Government are seeking to "go global", as the Prime Minister has put it on so many occasions, and to do so with a ship that is extraordinary in many ways. The Secretary of State, in his Statement, pointed out that it was truly a step change in capability and that to appreciate the enormity of the vessel, you must stand on its vast deck.

I have not stood on the HMS "Queen Elizabeth" but I did have the opportunity to visit HMS "Prince of Wales" in dock when it was under construction. It is a most incredible ship. However, when the ships were being announced, Russia was very scathing about the size and visibility of the Queen Elizabeth-class aircraft carriers. I am sure that the Minister will be very quick to say that this is nonsense and that the ships are very well defended, but can she give us some indication of the way in which HMS "Queen Elizabeth" is being supported? It is very clear that this carrier strike group, as laid out in the Secretary of State's Statement, has, as is suggested, a ring of capability. Most of the ships—the destroyers and the anti-submarine frigates—are British vessels, but how far into the future have the Government thought and planned about the support that can be given?

There is a great deal of emphasis on the work with the Dutch and the Americans. To what extent do the Government see this carrier strike group as being a way of having more multilateral deployments, or is HMS "Queen Elizabeth" intended to be part of a solely British force in future? It is obviously important that bilateral training is going on. Can the Minister tell the House a little more about what is envisaged with our European allies? There is a very clear statement that the carrier strike group will demonstrate our enduring commitment to NATO, but a little more about the links with Europe would be very welcome.

The Statement talks about this being sovereign territory. Clearly it is important in terms of many of our international commitments that the Queen Elizabeth class carriers are indeed able to travel to the Pacific. We have recently seen issues of navigability, with the problems in Suez, and we know that shipping is so vital to trade. It is clearly welcome that HMS "Queen Elizabeth" is leading this carrier strike group, but can the Minister tell us a little bit more about its aims? The Secretary of State talked about being a projector of hard and soft power. Many people listening from outside the Chamber—who maybe do not have any defence experience—might wonder how on earth the Queen Elizabeth class carriers can project soft power. I suspect I know the answer but it would be interesting to hear the Government's perspective on that.

This is an interesting deployment, but it is notable how important the UK says it is that we do not allow countries to breach international law. We note then that the carrier is going close to China but not seeking to be provocative. What signals do the Government wish to send to China with this deployment?

The Minister of State, Ministry of Defence (Baroness Goldie) (Con): My Lords, first, I genuinely thank the noble Lord, Lord Tunnicliffe, and the noble Baroness, Lady Smith, for their positive comments about the carrier and the carrier strike group. It is a moment for reflection and pride that we have been able to assemble such an impressive demonstration of our commitment to our global reach and global responsibilities. I can confirm to the noble Lord and the noble Baroness that the extent of the interest from across the globe has been very significant; this is clearly proving an exciting proposition to our friends and allies.

To deal with some of the specific points raised, the noble Lord, Lord Tunnicliffe, particularly asked about the crewing of the "Queen Elizabeth". In December 2020, the carrier strike group declared that it had reached initial operating capability. It is about to embark on its final training in UK waters next month and exercise Strike Warrior will test the strike group through a range of operational scenarios. At the end of this period the operational commander, the chief of joint operations, will be presented with a declaration that the carrier strike group is ready to deploy on operations.

The noble Lord, Lord Tunnicliffe, asked about the use of UK-produced steel. That is an important issue and was raised in the other place. I reassure the noble Lord that we recognise the importance of the United Kingdom steel industry and, in fact, British steel has accounted for almost half of the steel by value in the build of the Type 26. As to the more detailed information he seeks, I should like to try to procure that and I propose that I write to the noble Lord. I hope that he will permit me to do that.

Among other issues, the noble Lord also raised the shipbuilding strategy, which the Government have pledged to publish. We are working at pace to refresh the national shipbuilding strategy and it will contain details of how we intend to monitor the success of the strategy. My understanding is that we hope to be able to provide further information on this in early summer.

The noble Lord also raised the issue of the sovereign core of the carrier group and whether there will be enough British warships to sail with our own British carriers. The sovereign core of the group are the Royal Navy frigates and destroyers, helicopters and submarine that will routinely deploy with the carrier. The United Kingdom has 18 F-35s, and we could now put all 18 on the aircraft carrier. We could deploy the aircraft carrier group alone or with allies.

This deployment is in fact about our strength compared with that of our adversaries. We have friends and alliances, and that is vital, because it means that, if there is any attack on us, it is an attack on NATO—to attack us is to attack our allies. That is our real strength globally so, as I said, we have a huge expression of interest from countries wanting to sail with us and stand up for our common values.

The noble Lord raised the issue of what happens when the "Queen Elizabeth" returns to military business. I think he was particularly interested in knowing whether it would involve patrolling the North Atlantic, the high north and the Mediterranean. NATO is obviously our cornerstone; our home beat is the Atlantic and that is where our most aggressive adversary is active. Only recently we saw it active in December when nine Russian ships were operating in the waters around the UK; the Russians have been assertive. That is why it is important that we are active and hold the Atlantic flank of NATO as well as using our convening ability to bring in the French, Germans and others who wish to patrol the seas alongside us. While the noble Lord will understand that I cannot comment on specific operational deployment, the carrier strike group is intended to have a holistic role in our defence activity.

The noble Baroness, Lady Smith, whom I thank for her positive comments, raised a number of important points. She asked particularly about the threat of Russia and the comments that it has made in relation to the carrier presence, asserting that it is vulnerable. I reassure her that our UK Armed Forces play a leading role in NATO's enhanced forward presence in the Baltic states to enhance Euro-Atlantic security. In response to the comments about the carrier itself, we keep all threats under constant review, and we are confident that our new aircraft carrier is well protected thanks to defensive systems that we have invested in as part of our £178 billion equipment plan. The carrier will be robustly protected by air and sea assets against threats known and unknown.

The noble Baroness made an important point about our European allies. Again, we are very conscious that the security of Europe is pivotal to the security of the UK and vice versa. In the European context, we are one of the leading powers in NATO; we are the largest spender of the NATO European members and we have strong bilateral relationships with various European countries. Those are relationships that we value hugely, and our desire is to maintain a constructive and engaged dialogue with our friends in Europe. There is an awareness of the mutual interest and benefit to us all in doing that.

The noble Baroness commented on soft power. That is a very important aspect of the approach. The carrier strike group is in fact a manifestation of the objective of the integrated review, which was to look at defence, security, trade and diplomacy and to recognise that these are all interconnected and do not exist alone in silos. That is one reason why the carrier strike group not only has defence security significance but has the flexibility to afford the promotion of relationships with friends and allies in different parts of the world and particularly to facilitate discussions in relation, for example, to trade. A trade conference has been proposed that would be on board CSG21 units. The strike group will play an important role in relation to these issues.

The noble Baroness also raised the role of China. It is important to be clear about the objective of the strike group. The strike group is to represent the support and positive relationships with our friends and allies in the Indo-Pacific area. It is not intended to be confrontational and the group will obviously be visiting parts of the South China Seas. We have enduring interest in the region and are committed to maintaining regional security. Wherever the Royal Navy operates, it does so in full compliance with international laws and norms. That is why we are clear that this deployment is not to be regarded as provocative or confrontational. That is not why we are engaging on this important exercise; it is because we want to show to our friends and allies in the region that the area matters to us. Strategically, it is important because of trade and potential trade links. It is also important in relation to our existing defence relationships that we have in that area. We are therefore positive about the reasons for this exercise. From the reaction we are getting, our friends and allies in the area are positive about us coming.

I scribbled down something that the noble Baroness asked me and I am ashamed to say that I cannot remember what it was about. I wrote down "international" but cannot recall the context of her question. I apologise. I will look at *Hansard* and undertake to write to her.

The Deputy Speaker (Baroness Watkins of Tavistock) (CB): I understand that the Chief Whip wishes to speak now. Is that correct? I have been told that the noble Lord wanted to interrupt. I thank him. We will now proceed to the 20 minutes for the Back-Benchers.

7.01 pm

Lord Robathan (Con): My Lords, I applaud this deployment and it is excellent to see this extremely expensive carrier being put to good use. I wish the deployment of the strike force well and godspeed in these dangerous times. Does my noble friend think that it is sensible in such times to be reducing the number of ships in the Royal Navy and the number of aircraft in the Royal Air force, and slashing the size of the British Army? What signal does she think that that may send to our allies and potential adversaries?

Baroness Goldie (Con): I should say to my noble friend that I do not share his somewhat pessimistic perspective. He will be aware that the defence budget is at unprecedented levels, which includes a healthy shipbuilding investment that will double over the life of this Parliament, rising to over £1.7 billion a year. We are also committed to exciting developments on our aerial front, including the RAF with the FCAS and our proposed investment in the F-35s. I should say to him in relation to the Army that we are moving into a completely new age of defence. That has been acknowledged, not just in the integrated review but in the defence Command Paper and the *Defence and Security Industrial Strategy*. He will understand that our intentions for the Army are to have a highly trained, skilled professional Army with expertise and which benefits from new technologies. Quite simply, that makes it possible for the Army to work with fewer people and achieve greater effect than was possible in the past. That is the point we have got to focus on. I should also say to my noble friend that we do not propose redundancies, but we will be looking at ways in which to achieve the diminutions with those who seek to retire.

Lord Boyce (CB) [V]: My Lords, as a submariner I echo the opening part of the Statement and its sentiments regarding condolences to the Indonesian navy and the families of the ship's company of the submarine KRI Nanggala following its loss. I am sure your Lordships share these sentiments. Considerable fundraising efforts are well under way within the UK submarine community, aimed at supporting the bereaved families of the 53 fellow submariners lost.

Regarding the main part of the Statement, I welcome the very good lay down of what a carrier strike group can provide strategically, operationally and tactically. In the context of the strike group's deployment to the Indo-Pacific, it is good to see recognition of the need to exert our legal right to freedom of navigation, especially in the South China Sea, and the opportunity that will be taken to re-energise our partnerships and alliances in the region, particularly with the FPDA.

The Statement very wisely does not give the carrier strike group's detailed itinerary, thus rightly preserving the sovereign choice of options provided by a maritime force through its ability to poise on the high seas and come and go at a time of its choosing, and its range and flexibility of manoeuvre and capabilities, hard and soft. However, does the Minister agree that it would be sensible to look for an opportunity to establish a maritime relationship with the United States, India, Japan and Australia through the Quadrilateral Security Dialogue, the Quad?

Baroness Goldie (Con): I thank the noble and gallant Lord for his condolences regarding the tragic situation of the Indonesian submarine where so many lives were lost. I share these condolences, and I am sure they are shared by everyone in the Chamber. I was very encouraged to hear what he said about our own submariner community showing support; we are very proud of it for doing that.

The noble and gallant Lord raises the important issue of the implications and impact of the carrier strike group, particularly in the Indo-Pacific area. As he rightly identifies, there are strategic, geopolitical and trade interests there and, of course, the important alliances and partnerships I referred to earlier. He is absolutely correct that the countries he has described are important to the United Kingdom. We already enjoy very strong relationships with these countries through a variety of means, and I am sure we are always willing to explore how these relationships can be advanced and progressed. He raises an interesting point, and that is no doubt something that will give rise to further discussion.

Lord West of Spithead (Lab): My Lords, I congratulate the Government on generating this powerful force and agreeing to deploy it into regions of the world that are so important for our nation and for global security. They are also regions of the world where we are the largest European investor, and we need them for our balance of payments.

Twenty-five years ago in January, I was the battle group commander for a battle group of 19 ships which: deployed from the UK and went out through the Mediterranean; worked in the Gulf; flew the first operations in the Iraqi no-fly zone—only our fighters were able to do it, from the carrier; operated in the Indian Ocean; went to Singapore for a five-power defence arrangement; carried out an amphibious assault of over 2,000 men in Brunei; went through the South China Sea, Japan, Korea and numerous other countries; was there for the Hong Kong withdrawal; visited Australia; and returned home.

What came over to me then was that the Foreign Office was so desperately pleased with everything that was done in diplomatic terms and what it meant for UK Ltd. I signed £2.5 billion-worth of defence and other deals—not just defence contracts—and we were able to do humanitarian things in various parts of the world. The ability of a group to do these things is absolutely there. Just on the intelligence side of life, it was clear to us that the Chinese were very worried when they saw the capabilities of this group that we could deploy 8,000 miles away and carry out an amphibious assault. It makes their islands look a bit dodgy and they have to think about it. When I operated with 22 ships in the North Atlantic the year before, it showed the flexibility; these ships can get everywhere, and the Russians were very worried because they could never find us.

This is a very powerful and useful group, and well done to the Government for doing it. But I also say beware, because when I sailed from the UK in January it was a Conservative Government; when I returned in August it was a Labour Government, and my noble friend Lord Robertson of Port Ellen was the Minister of Defence, who was so taken by the capability of this force that in his very good strategic defence review he decided we needed big carriers. I am delighted we got them, because now we have them today doing this.

My question may be only a petty one. There is no doubt that this shipbuilding strategy sounds very good, but I am scarred by being told I am going to get ships but never standing on their quarterdeck. In each of the big deployments I did as a carrier battle group commander, I had two solid support ships with me. I notice that only one is going out to the Far East, and it is over 40 years old—RFA "Fort Victoria". I ask the Minister: when will we actually put in the order for the three fleet solid support ships we need, and will they be built in this country? It is no good these things being put off. It is like with the Type 26s: we need the orders, and we need to start building.

Baroness Goldie (Con): First, I say to the noble Lord that his youthful demeanour belies that he was commanding this impressive operation—I think it was Ocean Wave—in 1997. I am grateful to him for powerfully encapsulating the potential that a carrier strike group has. He made the point extremely well.

As the noble Lord is aware, we have a shipbuilding programme in place; he and I have exchanged views on that in the Chamber. I think it is a healthy programme; I detected from a meeting this morning that it has excited Navy Command and people there feel a sense of purpose and anticipation. I am delighted about that, because, as the noble Lord would agree, morale within our Armed Forces is very important. So I am pleased to confirm that.

On the fleet solid support ships, the noble Lord will probably be aware this is at a critical stage of contract progress, where consideration will be given to the award of a contract. I am constricted in what I can say about that, but he will know that the Secretary of State has been clear about his desire to proceed with augmenting the solid support ship fleet, and I anticipate we may be able to disclose more on that front in the not too distant future.

Lord Wallace of Saltaire (LD) [V]: My Lords, I am a little worried by the air of nostalgia in several paragraphs of this Statement, with references to our

"proud history … legendary Second World War vessels",

and so on.

Does the Minister recall the speeches our then Foreign Secretary, Boris Johnson, made in his visits to the Middle East in December 2016 and early 2017, in which he talked about Britain returning east of Suez, having major bases in the Gulf and Diego Garcia and stationing vessels permanently out there—and, perhaps, marines and troops? Does she worry that this may lead us to overextension? Does she also recall that part of the justification for the withdrawal from east of Suez in the mid-1960s was that in order to sustain a ship on station in Singapore or east Singapore, it was estimated that four other vessels were needed—going out, coming back, working up and under refit? If that is what we are committed to, I strongly support the noble Lord, Lord West, in that we need an awful lot more frigates and aircraft carriers than we have.

Baroness Goldie (Con): I was just trying to race through the potted history of all this. As the noble Lord, Lord West, carefully and eloquently outlined, we all have an understanding of what this is about, and we all regard it as being positive. The key to this is that we recognise we are living in a world where we work more strongly with alliances and partnerships.

As the carrier strike group heads off in May, it will be the start of a series of important messages and an indication of a more persistent presence in the Indo-Pacific area. There are plans for how we achieve that, and there will be flexibility in how we take that forward.

The noble Lord may think some of the language is tub-thumping and perhaps Victorian in character. I think this is facing up to the realities of what 21st-century global opportunity is. There are opportunities, and that is one of the reasons for the carrier strike group deploying. It is also a realistic assessment of the new order of things in the Indo-Pacific area and a desire to work with our allies and partners in recognising and addressing that.

Lord Sarfraz (Con): My Lords, growing up, one of my fondest memories was visiting naval ships on good-will tours. Our carrier strike group will be visiting 40 countries. Due to Covid, I imagine we will have restrictions on visitor open days, but will my noble friend the Minister tell us whether we have thought of alternative, maybe even virtual, means to show the flag during this tour?

Baroness Goldie (Con): My noble friend makes an important point. This entire deployment has been planned with a sharp eye on the possible implications of the pandemic. I reassure both my noble friend and the Chamber that we are deploying the carrier strike group mindful of the risks of Covid-19. We are working hard within the strike group itself and alongside nations that we hope to engage with during the deployment to ensure that we implement and understand the current safety measures and requirements, and can plan activity accordingly. But he makes a good point: what is plan B if, for any reason, the pandemic intervenes in an unwelcome fashion? We will look to ensure that we maximise engagement, as far as possible. We will be creative and innovative and, yes, use virtual means where appropriate.

Lord Ramsbotham (CB) [V]: My Lords, I ask the Minister: how many small ships are left to protect the United Kingdom's coastline, when those required to accompany the carrier strike group are taken away?

Baroness Goldie (Con): I reassure the noble Lord that we are satisfied that we will have sufficient maritime capability to deal with all the obligations that fall on us to keep the country safe and discharge our defence responsibilities.

Baroness Bennett of Manor Castle (GP) [V]: My Lords, I frame my question in the context of the integrated review of security, defence, development and foreign policy, which places supporting human rights, the rule of law and the COP climate process at the centre of our approach to security.

The Statement is glowing about our Five Power Defence Arrangements with Malaysia, Singapore, Australia and New Zealand, which is described as being based on

"common shared values of tolerance, justice and the rules-based order."

I ask the Minister how that squares with the failure to make progress on the rule of law and democracy in Malaysia, including its use of the Communications and Multimedia Act to target human rights offenders, activists and cartoonists; the delivery of a death penalty sentence for drugs offences by Zoom, in Singapore last year, and the pursuit of political bloggers with swingeing defamation suits there; and the disastrous record of Australia on climate action and biodiversity destruction, plus the damning judgment of the UN special rapporteur on the rights of indigenous peoples on its treatment of indigenous people.

Baroness Goldie (Con): The noble Baroness encapsulates the relevance, significance and purpose of the carrier strike group. The difficulties to which she refers can be unilaterally addressed by the United Kingdom on the diplomatic front. We engage with Malaysia, and we articulate concerns when we feel that matters need to be brought to the attention of any Government. I underline that the carrier strike group is about standing up for the values that we all cherish within the United Kingdom—values we know are shared by our friends and allies, not least in the Indo-Pacific area. One of the best manifestations and indications of support that we can give is to get the carrier strike group out there, with the momentum it will generate and its capacity to excite, encourage and make our friends and allies realise that, together, there

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is so much that we can do that is positive and can assist. The common difficulties to which she refers are part of that, and will have a better chance of being resolved if we all work as a team to address them.

The Deputy Speaker (Baroness Watkins of Tavistock) (CB): That completes noble Lords' questions on the Statement.

Arrangement of Business

Announcement

7.20 pm

Lord Ashton of Hyde (Con): My Lords, before we go any further I thought that it would be helpful if I were to make another short business statement, as I promised this morning.

As I made clear in my earlier statement, because there is still no agreement between the two Houses on the Fire Safety Bill and the National Security and Investment Bill we will continue sitting tonight to consider further Commons messages. Our consideration of the Fire Safety Bill will be at a convenient point after 8 pm, and our consideration of the National Security and Investment Bill will not begin before 9 pm, with the start time confirmed via the annunciator.

The House of Commons has been clear about where it stands on the three Bills that are left before us. This House has now asked the Commons to think again more than once on each of the Bills, and has each time been provided with reasons why this House's amendments cannot be accepted. It is time to accept the settled view of the elected House. Noble Lords have made their views clear, and the elected House has made its position equally clear. It would not be right for it to appear that this House does not accept the primacy of the House of Commons.

Once again, I encourage noble Lords with an interest in the National Security and Investment Bill to keep a close eye on the annunciator.

Baroness Smith of Basildon (Lab): My Lords, I thank the Chief Whip for his statement, which was helpful to the House. I will just add that he sounded a bit waspish at times. I am sure that he did not mean to. Parliament and legislation benefit from the kind of dialogue and debate that we have had around this legislation, and I hope that the Government found that helpful. I do not think that this House has ever not accepted the primacy of the Commons. We do, however, sometimes suggest that perhaps we have better ideas and the Commons might not always get it right first time. We play our part in legislation, therefore, in the normal way, and I am grateful to the noble Lord for the time he has given us this evening.

Lord Cormack (Con): My Lords, as one who believes very strongly in both Houses and has now done nearly 51 years in Westminster, I strongly support my noble friend's position, much as I admire what the noble Baroness the Leader of the Opposition said. It is right that we should ask the Commons to think again, and again—and sometimes again. There comes a point, however, and the eve of Prorogation certainly is one, when we have to decide whether we wish the Bills to go forward or not. I have many criticisms of all of them, but at the end of the day the primacy of the House of Commons should prevail, and I very much hope that there will not be any more Divisions this evening.

Lord Ashton of Hyde (Con): My Lords, I thank the noble Baroness and the noble Lord for their views. I think that ultimately we are all agreed that, although we accept the primacy of the Commons, in many of these Bills the Government have made concessions, which is just as it should be: many Bills, if not all Bills, are improved in this House. I hope that that will be the case here. I agree with my noble friend that we should finish it tonight.

Arrangement of Business

Announcement

7.23 pm

The Deputy Speaker (Baroness Watkins of Tavistock) (CB): My Lords, for consideration of Commons reason and amendments on the Overseas Operations (Service Personnel and Veterans) Bill, I will call Members to speak in the order listed. Where there are no counterproposals, as for Motion A, the only speakers are those listed, who may be in the Chamber or remote. When there are counterproposals, as for Motion B, any Member in the Chamber may speak, subject to usual seating arrangements and the capacity of the Chamber. Any Member intending to do so should email the clerk or indicate when asked. Members not intending to speak should make room for Members who do. All speakers will be called by the Chair. Short questions of elucidation after the Minister's response are discouraged. A Member wishing to ask such a question must email the clerk. Leave should be given to withdraw Motions.

When putting the Question, I will collect voices in the Chamber only. Where there is no counterproposal, the Minister's Motion may not be opposed. If a Member taking part remotely wants their voice accounted for if the question is put, they must make that clear when speaking on the group. Noble Lords following proceedings remotely but not speaking may submit their voice, "Content" or "Not-Content", to the collection of the voices by emailing the clerk during the debate. Members cannot vote by email; the way to vote will be via the remote voting system.

Overseas Operations (Service Personnel and Veterans) Bill

Commons Reason and Amendments

7.25 pm

Motion A

Moved by ***Baroness Goldie***

That this House do not insist on its Amendments 1S, 1T and 1U and do agree with the Commons in their Amendments 1V, 1W, 1X, 1Y and 1Z in lieu.

1V: Page 12, line 39, leave out from "crimes)" to end of line 2 on page 13

1W: Page 13, line 13, leave out from "crimes)" to end of line 18

1X: Page 13, line 34, leave out paragraph 24

1Y: Page 14, line 6, leave out from "crimes)" to end of line 12

1Z: Page 14, line 33, leave out sub-paragraph (b)

The Minister of State, Ministry of Defence (Baroness Goldie) (Con): My Lords, I am extremely pleased to confirm that the Commons has agreed to the government Amendments 1V, 1W and 1X in lieu of Lords Amendments 1S to 1U. In doing so, I draw attention to the consequential Amendments 1Y and 1Z—which were also agreed—to the government amendments, which serve only to delete the now unnecessary definition of articles in Schedule 1.

As I set out in some detail in our debate on this issue on Monday, it has always been the Government's view that the measures in the Bill will not increase the risk of our service personnel or veterans being investigated or prosecuted by the International Criminal Court. Accepting this amendment in lieu, which will exclude all offences that fall within the jurisdiction of the International Criminal Court, including war crimes, will offer further reassurance and put this issue beyond any doubt.

The other place has agreed to Lords Amendment 1R, which excludes all offences under the Geneva Conventions Act 1957 from Part 1 of the Bill. The grave breaches of the Geneva conventions referred to in that Act are also war crimes offences through the International Criminal Court Act 2001. As such, it is right that these offences should also be included in Schedule 1 in order to maintain a consistent approach.

The measures in Part 1 of the Bill will apply to all "overseas operations", as defined in Clause 1(6), and it is perhaps worth remembering that not all alleged offences committed on an overseas operation will amount to an ICC Act offence. I can reassure your Lordships, therefore, that service personnel and veterans will continue to receive the benefits of the additional protections provided by the measures in Part 1 of the Bill in respect of historical alleged criminal offences under the criminal law of England and Wales through the Armed Forces Act 2006, saving those offences that have been excluded by Schedule 1.

The decision of whether to exclude war crimes from the measures in the Bill has limited practical effect. In practice, the prosecutor would still have retained their discretion to prosecute an individual for a war crime, because any credible allegation would be likely to trigger the exceptionality threshold in the presumption. The decision to exclude war crimes is aligned with the highest standards that we expect from all our Armed Forces personnel, the overwhelming majority of whom meet those expectations and serve with great distinction. But we rightly hold anyone to account when they fall short of these expectations.

The Bill delivers the Government's commitment to protect our service personnel and veterans from the threat of legal proceedings in connection with historical overseas operations many years after the events in question, and it reinforces our continuing commitment to strengthen the rule of law and maintain our leading role in upholding the rules-based international system. We intend to maintain our leading role in the promotion and protection of human rights, democracy and the rule of law.

The Government have listened to the concerns of both Houses, particularly the concerns so eloquently expressed by noble Lords on this matter, and the other place has accepted the government amendments in lieu. I therefore urge your Lordships to likewise accept these amendments.

I also beg to move Motion B, that this House do not insist on its Amendment 5B, to which the Commons have disagreed for their reason 5C.

7.30 pm

On Amendment 5B, it continues to be the Government's view that it would not be practicable or desirable to define a legally binding standard of care. As I have now said on several occasions, the MoD takes very seriously its duty of care for service personnel and veterans. Over the years, we have established a comprehensive range of legal, pastoral, welfare and mental health support for service personnel and veterans. We have come a long way from the early days of our operations in Iraq and Afghanistan. Our welfare provisions were clearly laid out in the Defence Secretary's Written Ministerial Statement of 13 April, and continued improvement can be achieved without the need for legislation.

I urge your Lordships to read this Statement carefully, because it sets out the full range of measures and support that are available for service personnel. The support arrangements that we have in place today mean that, where an investigation takes place into allegations of crimes committed on the overseas operations to which this Bill applies, those involved will be looked after from the beginning to the end of the process, even after they have left the service.

Additionally, I must stress again that we are deeply concerned about the potential unintended negative effect of this amendment if it is included in the legislation. Notions of pastoral and moral duties are extremely difficult to adequately define in law and there is a real risk that attempting to do so will lead to more, rather than less, litigation and greater uncertainty. We are also deeply concerned that, as investigations and allegations arise on operations, this amendment might have the unintended and undesirable consequence of undermining our operational effectiveness.

Where the Government do agree with the noble Lord, Lord Dannatt, is on the need to clearly set out the benefits of this Bill to the Armed Forces community, and he has asked for a commitment that the Government will communicate the benefits of the Bill down the chain of command. Of course, I can and will give that assurance now. We will aim to ensure that all service personnel understand the positive effects of the Bill and the legal protection it affords them. We will explain how the measures in the Bill are beneficial to individual service personnel who have or will deploy on overseas operations. Part 1 of the Bill will reduce the number and length of criminal investigations that are connected to overseas operations. Our Armed Forces personnel

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can be reassured that the unique context of overseas operations will be taken into account when criminal allegations against them are being investigated.

In relation to Part 2, the longstop measures should be a disincentive to the industrial scale of claims we saw in the wake of Iraq and Afghanistan and should encourage legitimate claims to be brought promptly. This will directly benefit service personnel, who will no longer have to give evidence in court many years after an event. More importantly, these same measures will reduce criminal investigations and reinvestigations which are triggered by late civil claims. Together, both parts of the Bill will give greater certainty to service personnel that they will not have the shadow of legal proceedings hanging over them for decades after they return from an overseas operation.

As I said earlier, it will, of course, be clear that the Bill will not stop service personnel being held to the highest standards that we expect from all our Armed Forces, and that they will still be subject to domestic and international law when they deploy on overseas operations. Similarly, we will make it clear that the limitation longstops will also apply to claims by them if they are connected to overseas operations, and emphasise that they should bring such civil claims within six years of either the event or their date of knowledge. As has been previously indicated, the vast majority have historically already done so, but it is important that this message is understood, so that, in future, an even greater percentage of service personnel can bring their claims in a timely manner.

In summary, this legislation delivers for our Armed Forces and protects our people, and I do not believe that setting a standard for duty of care in the Bill is necessary or desirable. Finally, I note that the noble Lord, Lord Dannatt, has previously indicated that he will bring back this amendment in the Armed Forces Bill, which will come to this House in the summer, and this House will no doubt debate the issue further. I look forward to continuing these constructive discussions about the wider duty of care owed to our people. In these circumstances, I urge the noble Lord not to press his amendment.

Viscount Younger of Leckie (Con): My Lords, I think it may have been noticed that my noble friend has strayed from Amendment A into Amendment B. I think it would be wise to allow the Deputy Speaker to deal with Amendment A before we move on to Amendment B. I might be able to persuade my noble friend to keep her opening speech short for Amendment B as it has been given already.

Lord Robertson of Port Ellen (Lab): My Lords, I am grateful for the clarification by the Whip on the Bench. I am going to talk about Amendment A only at the moment, but the Minister clearly was trying to save us time by conflating everything into one. I thank the Minister for her co-operation and help during the course of this particular issue. My prevailing sentiment at the end of this process is relief. I am happy to accept the government amendments that have been put down that discharge the decision taken by the House in its earlier session.

It is a relief that we have, in doing so, saved the Government and, more importantly, the country from the embarrassment, maybe even the humiliation, of challenging international humanitarian law, which would have been the import of where we were going. It was, however, not easy to persuade Ministers and their somewhat acquiescent majority in the other place that this aspect of this Bill would cause more trouble than it would solve. It took two chunks of parliamentary time to persuade them to come to this conclusion this evening, but, finally, sense has prevailed. Our troops, sent overseas in our name, will now not be singled out as being above the law that they seek to uphold. They will not face the prospect of being subject to the jurisdiction of the International Criminal Court. Nor will we, this United Kingdom, become the precedent for every warlord or war criminal to say that our presumption against prosecution after five years would give them some sort of carte blanche to be let off the hook. Improving—some might say saving—this Bill represents the conclusion of a tenacious campaign to draw public and parliamentary attention to its manifest defects.

In particular, I pay tribute to John Healey MP, the shadow Defence Secretary, and Stephen Morgan MP, who sought in the other place to demonstrate the weaknesses of the Bill. I also thank David Davis MP—who I once was in hand-to-hand combat with as his shadow in the days of the Maastricht treaty—who was, in this case, a powerful voice in changing the legislation. I also pay tribute to Dan Harris in the PLP office, who gave so much advice and support to me and my colleagues, my noble friends Lord Tunnicliffe and Lord Touhig, as they campaigned vigorously during this Bill. I also pay tribute to the noble Lords, Lord West, Lord Campbell of Pittenweem and Lord Alton, who were my co-signatories on the key amendment.

I would also like to mention the *Financial Times*, the *Daily Mail* and Nick Cohen in the *Observer*, who also joined in the campaign to change the Government's mind on this case. A number of NGOs also played a major part in drawing attention to what we are talking about here this evening, and I single out Steve Crawshaw at Freedom from Torture, who did a huge job here. The Bingham Centre, the Law Society, Liberty, the APPG on Drones and the British Legion all offered detailed advice and intelligent, perceptive and constructive criticism of the Bill. It was a Bill that sought to do a commendable service for our fighting forces but which almost ended up leaving them liable to trial in The Hague.

As I said originally, my overwhelming sentiment now is relief, and I welcome the Government's amendments tonight. Elegantly, they make it clear that war crimes, improbably committed by British troops serving overseas will be subject, as they are in international law, to no time limit at all. I thank the Minister, the noble Baroness, Lady Goldie, for her understanding and indulgence, and I am so pleased this evening to be able to give her support in relation to Motion A.

Baroness Smith of Newnham (LD) [V]: My Lords, between the two items of business on defence matters, the Government Chief Whip pointed out that there are three pieces of legislation still going back and forth between your Lordships' House and the other place. With regard to the Overseas Operations (Service Personnel

and Veterans) Bill, I suspect that this will be the last iteration in either Chamber because, as the noble Lord, Lord Robertson, so eloquently pointed out, the Government's amendments in lieu of this particularly important amendment basically give everything that we have been asking for at various stages.

I will not rehearse the litany of people that the noble Lord, Lord Robertson, said, had either supported the amendment or given advice on it, other than to say, in line with his sentiments, that the omission of genocide, war crimes and crimes against humanity and torture had potentially created a lacuna in the Bill that could have been detrimental to service personnel and veterans. While the stated intention of the Bill, to deal with vexatious claims, was a good one, the original framing of the Bill was less good. With this amendment, we have moved a long way towards making the Bill fit for purpose and we certainly support the amendments that the Government have brought forward at this stage. I thank the noble Lord, Lord Robertson, for his tenacity in bringing the amendment again and again, and I thank the Minister for listening and for the representations that have gone back and forth between the Chambers. At this stage, I welcome this Motion and expect to see the Bill passing relatively soon.

Lord Tunnicliffe (Lab) [V]: My Lords, we welcome the Government's amendments to ensure that serious offences, including war crimes under the jurisdiction of the ICC, are excluded from the presumption against prosecution. These amendments give full effect to the amendments passed on Report in this House, which were signed by noble and gallant Lords who have much wisdom and guidance, both on military matters and human rights.

It has taken a lot of work to get to this point and is a testament to the important work we do. I thank the noble Lord, Lord Robertson, for his leadership on this issue, as a former head of NATO and former Defence Secretary. I also thank colleagues for the collaborative approach that all sides have shown on this issue. I remind the Minister that this mistake was not discovered at the last minute; it was a glaring issue when the Bill was first published, an issue that threatened our international standing, including that of our Armed Forces, and could have led to British service personnel being called in front of the ICC.

The Government's amendments mean that our international reputation will not be trashed, but it has been damaged, just like it was by the internal market Bill and by the cut in development spending. It leaves me wondering what message this Government want to send to the world, because the world watches what we do. As the noble Lord, Lord Robertson, said, this would have set a terrible precedent, likely to be grabbed on by many of the worst regimes in the world. I close by imploring Ministers, if they really want Britain to be a moral force for good in the world, to not be so reckless. With this Bill, which still has many flaws, we got there in the end on this issue, and for that, I am grateful.

7.45 pm

Baroness Goldie (Con): My Lords, first, I offer my apologies to the Chamber and the Deputy Speaker for my inadvertent acceleration of proceedings. At this time of day, immediately after a Statement, I fell into the trap of reading the two speeches I found in the folder together. I emphasise that no discourtesy was intended to the Chamber, and very particularly I say to the noble Lord, Lord Dannatt, that none was intended to him.

I thank noble Lords for their comments, and particularly the noble Lord, Lord Robertson, for his singular contribution to this issue. I am very grateful that on what is an important issue we have managed to reach a position acceptable to him and his fellow contributors. I am very grateful to the noble Baroness, Lady Smith, for her helpful comments on the Bill and for her desire to get it passed. I also express to the noble Lord, Lord Tunnicliffe, my appreciation of his acknowledgement, while he may still have reservations about aspects of the Bill, of the progress made to bring it to an acceptable place.

I thank noble Lords for their contributions, and I commend the Motion.

Motion A agreed.

Motion B

Moved by ***Baroness Goldie***

That this House do not insist on its Amendment 5B to which the Commons have disagreed for their Reason 5C.

5C: Because it is not necessary, and would not be practicable, to define a legally binding standard of care in relation to the matters referred to in the Lords Amendment.

Baroness Goldie (Con): I beg to move Motion B. I again apologise to the noble Lord, Lord Dannatt, for inadvertently making my speech in advance; I am sure that all your Lordships will be relieved to hear that I do not intend to repeat it. However, I wish to say how much I have appreciated the noble Lord's profound and passionate interest in the issue which he is pursuing. I know that that is born out of a genuine desire to do his best and ensure that Parliament does its best for our Armed Forces personnel. Therefore, although I will not repeat my speech, I shall certainly listen with great interest to what he has to say.

Motion B1 (as an amendment to Motion B)

Moved by ***Lord Dannatt***

At end insert "but do propose Amendment 5D in lieu—

5D: After Clause 12, insert the following new Clause—

"Duty of care to service personnel

(1) The Secretary of State must establish a duty of care standard in relation to legal, pastoral and mental health support provided to service personnel involved in investigations or litigation arising from overseas operations, as defined in section 1(6).

(2) The Secretary of State must lay a copy of this standard before Parliament within six months of the date on which this Act is passed.

(3) In subsection (1) "service personnel" means—

(a) members of the regular forces and the reserve forces;

(b) members of British overseas territory forces who are subject to service law;

(c) former members of any of Her Majesty's forces who are ordinarily resident in the United Kingdom; and

(d) where relevant, family members of any person meeting the definition within paragraph (a), (b) or (c).

(4) In subsection (1) "duty of care" means both the legal and moral obligation of the Ministry of Defence to ensure the wellbeing of service personnel.

(5) None of the provisions of this section may be used to alter the principle of combat immunity.""

Lord Dannatt (CB) [V]: My Lords, this is now the fifth time that I have spoken in favour of an amendment to the Bill inviting the Secretary of State for Defence to lay down a duty of care standard to protect the legal, pastoral and mental health support available to serving and veteran members of our Armed Forces involved in investigations or litigation arising from overseas operations.

I continue to be most grateful to the Minister for her courteous but determined rejection of the arguments in favour of such a duty of care standard that have been advanced by many other noble Lords and by me. I am also most grateful for the cross-party, cross-Bench and tri-service support that this amendment has attracted. I have also most carefully read the *Hansard* reports of the debates on this amendment in the other place. I note support there for the amendment from right honourable and honourable Members from all the main political parties.

Given that the Minister and I are now not going to agree on this issue—I am grateful for her unintended but helpful preview earlier of her arguments in anticipation of this debate—I do not wish to detain your Lordships' House unduly on this matter this evening. I have previously argued that this is a matter of principle: of the Ministry of Defence showing itself to be a good employer by standing solidly behind its people. I have rejected arguments that a duty of care standard would create a dangerous employment precedent and that it would itself give grounds for serving and veteran personnel to sue the Ministry of Defence.

However, I take away some comfort on behalf of those who are serving or who have served their country in uniform from the commitment by the Government to publish down the chain of command, to serving personnel and out through appropriate means to veteran personnel, a clear statement as to how the Bill when enacted will provide them with a measure of the protection that my amendment sought to put into law. Indeed, I was encouraged to read that in the other place yesterday, the new Minister for Defence People and Veterans, Mr Leo Docherty, said,

"We are aiming for a gold standard and are improving our provision all the time without the requirement for legislation."—[*Official Report*, Commons, 27/4/21; col. 287.]

Clearly, there will be no legislation at this time, but I am delighted to hear the pledge of a gold standard. I will not be alone in watching for that gold standard to become manifest.

I will make two final points. First, on a point of principle, it is clearly an appropriate part of our national and political debate about foreign security and defence policy that opinion is often split along party-political lines. However, while that is appropriate, it is not acceptable or appropriate to extend that party division to the treatment of our service men and women and our veterans as people. For our service, on operations overseas and at home, our sworn allegiance is to the Crown and not to the Government of the day. Yes, of course, our elected Governments may well decree that such an operation is in the national interest, and members of the Armed Forces get on and do their duty, often laying their lives on the line on behalf of the nation in so doing. But party politics should not play any part in the way those personnel are treated as people. It has been thoroughly depressing, despite the widespread support for a duty of care standard, that the divisions in your Lordships' House and in the other place have been along party lines. That is not the way to treat our service people and veterans, who serve the Crown and the people of this country.

Secondly, on a point of opportunity, later in the year the Armed Forces Bill will return to your Lordships' House, as it does every five years. In the context of further strengthening the Armed Forces covenant, there is an opportunity to look again at issues of the treatment and care of our Armed Forces personnel, serving and veteran. I hope that we will take that opportunity and do so in the spirit of doing the right thing by those people and not just what the party Whips dictate. I believe we owe it to our service personnel to take party politics out of their treatment and care. If we are to seize that opportunity on a point of principle, I believe that difficult and divisive issues arising from operations overseas and in Northern Ireland could be satisfactorily addressed. We must not play party politics with the lives and well-being of those whose duty is to protect the security and interests of our country. I do not regard this matter as closed satisfactorily.

Baroness Smith of Newnham (LD) [V]: The noble Lord, Lord Dannatt, has exhorted us not to play party politics with this issue, and I certainly have no wish to do so. Our duties to our service personnel are crucial. It is absolutely right that the MoD and, by extension, the Government, should be a good employer, and I agree with the noble Lord that that should be a matter of principle.

The issues that the noble Lord has sought to put on the agenda and which we have debated on several occasions now, to ensure legal, pastoral and mental health support for service personnel, are crucial. However, the amendment to the Bill was for a duty of care in very limited circumstance: that for service personnel involved in investigations or litigation arising from overseas operations. That is clearly appropriate within the confines of a narrowly defined Bill. However, the issues are much wider. I am therefore grateful that the noble Lord is not pressing this amendment to a Division this evening, because it would be wise to be able to have a fuller and well-informed debate on a duty of care to be considered in the context of the Armed Forces Bill.

Whether that then takes a statutory form will depend on negotiations and, as the noble Lord suggested, not necessarily party-political discussions, but an understanding of the likely consequences, intended and unintended, of such a duty of care. From these Benches, we absolutely agree with the noble Lord that it is vital that the MoD provides legal, pastoral, and

mental health support for service personnel. We must get this issue right, and clearly it is appropriate that we do not divide the House again this evening, but that these issues come back in the next Session and that we keep raising them with the Minister.

Lord Tunnicliffe (Lab) [V]: My Lords, again, after another overwhelming majority in this House, the Government have rejected a duty of care standard for personnel and veterans who face investigations and litigations. This legislation is still very far from doing what it says on the tin: protecting British forces personnel serving overseas from vexatious litigation and shoddy investigations. It still fails to incorporate a duty of care for forces personnel who are faced with allegations, investigations, and litigation.

The gap was identified by veterans faced with investigation or litigation consistently saying that they are cut adrift by their chain of command and abandoned entirely by the MoD, with no legal, pastoral, or mental health support. Major Bob Campbell made that point so powerfully, from his own dreadful experience, in evidence to the Public Bill Committee in the other place. As the noble Lord, Lord Dannatt, has said,

"when this new Bill passes into law it will singularly fail to provide the protection that serving and veteran members of the Armed Forces believe it should provide."—[*Official Report*, 26/4/21; col. 2109.]

The Government's arguments have been weak against this amendment. They argued that they already provide this support, yet a gap has been clearly highlighted time and again. They also argued that it could lead to more troops being caught up in litigation—when all the Government need to do to avoid this is to fulfil their responsibilities—and that the duty of care amendment has drafting issues, when the Government have failed to produce their own version, as with the amendment tabled by my noble friend Lord Robertson.

With prorogation fast approaching, I accept that we should not divide on this amendment tonight. I will be entirely happy if the noble Lord, Lord Dannatt, withdraws his amendment for now, but I urge the Minister to think hard about this, as we will return to this issue in the Armed Forces Bill.

Baroness Goldie (Con): My Lords, I thank the noble Lord for his comments, and for his warm personal comments to me as an individual, which I appreciate. I also thank the noble Baroness, Lady Smith, and the noble Lord, Lord Tunnicliffe, for their contributions.

The noble Lord referred to this as a matter of principle. He may be surprised to hear me say that a duty of care is a very important matter of principle. On the principle, there is proximity between him and the Government, but the divergence of view is on the mechanism. Does doing this by statute makes things better for our Armed Forces personnel, or does such a statutory creation, through unintended consequences, inadvertently make things worse by creating scope for more litigation and possibly inhibiting operational command?

These are significant matters, and I sense that the noble Baroness, Lady Smith, recognises the need for caution—not in terms of what we all want, because I think there is a lot of agreement on that, but on the question of how we safely get there.

I am very grateful to the noble Lord, Lord Dannatt, for not pushing this to a Division this evening and recognising that there is merit in getting this Bill passed, but I warmly suggest to him that we continue our engagement and continue to explore whether we can find a route forward. I am a great believer in dialogue and discourse; when there is such obvious conjunction of opinion over what we want to try to achieve for our Armed Forces personnel and why, I like to think it might be possible to explore a safe road towards arriving at that destination—one which does not involve the hazards I have outlined.

I look forward to that continued engagement with the noble Lord and again express my appreciation to him for not moving this issue to a Division this evening.

8 pm

Lord Dannatt (CB) [V]: My Lords, I once again thank all noble Lords who have spoken or voted in support of my amendment on this important issue of a duty of care standard. It remains clear to me from what I have just heard from the Minister that there is no movement in the position taken by the Government on this. However, picking up a reference from the noble Lord, Lord Tunnicliffe, there must be no more Bob Campbells.

I am aware that this Session is nearing its end and that there is therefore a danger that, if I press this amendment to a further Division tonight, the Overseas Operations Bill, with its other important amendments now included, might be lost. For that purely practical and procedural reason—and recognising the moment for a tactical, if not a strategic, withdrawal—I will not seek to divide your Lordships' House again on this amendment. Instead, I will watch for the promulgation of the gold standard of care for our serving and veteran personnel and will, in the spirit of the Minister's comments just now, write to her to ask for an update on the development of that gold standard, and maintain the dialogue. Moreover, I note that we may return to this issue on the Armed Forces Bill later this year—in an open and frank way, I hope, and ideally not constrained by party politics. I beg leave to withdraw Motion B1.

Motion B1 withdrawn.

Motion B agreed.

Arrangement of Business

Announcement

8.03 pm

The Deputy Speaker (Lord Lexden) (Con): My Lords, I will call Members to speak in the order listed. As there are counterpropositions to the Minister's Motion, any Member in the Chamber or on the speakers' list may speak, subject to the usual seating arrangements and the capacity of the Chamber. Any intending to do so should email the clerk or indicate when asked. Members not intending to speak should make room for Members who are. All Members will be called by the Chair. Short questions of elucidation after the Minister's response are discouraged. A Member wishing to ask such a question must email the clerk.

[LORD LEXDEN]

A participant wishing to press an amendment other than the lead amendment to a Division must give notice in debate or by emailing the clerk. Leave should be given to withdraw Motions. When putting the Question, I will collect voices in the Chamber only. If a Member taking part remotely wants their voice taken into account if the Question is put, they must make this clear when speaking on the group. Noble Lords following proceedings remotely but not speaking may submit their voice, Content or Not-Content, to the collection of the voices by emailing the clerk during the debate. Members cannot vote by email; the way to vote will be via the remote voting system.

Fire Safety Bill

Commons Reason

8.05 pm

Motion A

Moved by ***Lord Greenhalgh***

That this House do not insist on its Amendment 4L, to which the Commons have disagreed for their Reason 4M.

4M: Because the issue of remediation costs is too complex to be dealt with in the manner proposed.

The Minister of State, Home Office and Ministry of Housing, Communities and Local Government (Lord Greenhalgh) (Con): My Lords, I express my thanks once again to everyone for their contributions to this important debate. The other place has now consistently voted against four different amendments on the issue of remediation. It is a vital issue but it is not for this Bill. This House has a choice about whether to prioritise finalising this important Bill or to delay it to the point where it falls.

The Government's position on the Fire Safety Bill has not changed. I will repeat our key points. We are all in agreement about the importance of getting the Fire Safety Bill on the statute book. Residents have a right to be safe and feel safe in their homes. As I have said repeatedly, without this Bill the legal ambiguity around the fire safety order will continue.

Let me be clear about what is at stake if we do not resolve this: responsible persons for multi-occupied residential buildings will be able to continue to argue that it is lawful to ignore the fire safety risk of the structure, external walls and flat entrance doors; and fire and rescue services will lack the legal certainty to support enforcement decisions taken to keep people safe.

Failure to get this Bill to the statute book will lead to a delay in delivering the Grenfell recommendations. This is not a political point. This Bill must come first as it provides the legal certainty that I have just referred to. That certainty will enable the Secretary of State to make regulations with reduced risk of challenge to place duties on responsible persons in relation to the external wall structure and flat entrance doors, as the inquiry recommended.

It might help the House if I provided an example. The inquiry recommended a frequency of checks on fire safety doors, including flat entrance doors and communal fire doors. That cannot be done easily and in a way that is relatively free from legal risk if we have not identified that flat entrance doors are within the scope of the fire safety order. Equally, enforcing authorities would not be able to take appropriate action in this regard.

I thank your Lordships for recognising the substantial government support—to the tune of £5.1 billion—for leaseholders for remediation of unsafe cladding. Our five-point plan to bring an end to this cladding crisis helps provide certainty to the housing market. Noble Lords yesterday raised some points about uncertainty in the housing market and about the concerns of lenders and insurers. Our five-point plan addresses these.

More needs to be done to ensure that those responsible for fire safety defects should contribute to paying the costs of remediation. Industry must play its part and pay its way, and through our high-rise levy and developer tax we will make sure that developers with the broadest shoulders pay their contribution.

I agree that leaseholders need stronger avenues for redress and I made that clear yesterday. The building safety Bill will bring forward measures to do this, including making directors as well as companies liable for prosecution. We are bringing about the biggest changes in a generation to the system through the building safety Bill.

Finally, I reiterate the comments I made yesterday about forfeiture. It is a draconian measure that should be used only as a last resort. This measure should be considered as part of our wider programme on leasehold reform. I beg to move.

Motion A1 (as an amendment to Motion A)

Moved by ***Lord Kennedy of Southwark***

Leave out from "House" to end and insert "do insist on its Amendment 4L"

Lord Kennedy of Southwark (Lab Co-op): My Lords, I first draw the attention of the House to my relevant interests as a vice-president of the Local Government Association, a non-executive director of MHS Homes Ltd and chair of the Heart of Medway Housing Association.

It is disappointing and frankly outrageous that the Government are doing nothing and not delivering on their promises to the innocent victims of the cladding scandal. The noble Lord, Lord Greenhalgh, has gone through various points. He said that the other place had consistently voted against our amendments. That is a matter of much personal regret. Most Members of the governing party do not seem to recognise the plight of the innocent victims in this scandal.

What also irritates me about this issue is the point made by my noble friend Lord Adonis. The Government are now saying, "Well, of course, the Session finishes tomorrow and we need to get the Bill on the books". The fact is that the Government, when the House of

Commons rejected our amendments some weeks ago, left them sitting there and did not bring them here. They could have done so and I do not know whether that was deliberate or incompetent. The fact is that the amendments just sat there and were not brought here. For the Government then to claim, "We cannot go any further because of where we are" is irritating, to say the least.

It is fair to say that one could never accuse this Government of acting in haste when it comes to the Grenfell Tower inquiry recommendations. This is the first piece of legislation since the fire happened four years ago this summer. The Government have not acted in haste at all. The noble Lord, Lord Greenhalgh, is right: I want to see the people who built defective buildings and put cladding on improperly pay. I do not want to see the innocent victims pay. I also want the companies that provided insurance honour it. They were clearly happy to provide the insurance and they should pay up. I also want to see the professionals who signed the buildings off and who pay for their professional indemnity insurance, come forward, recognise and be held to account for what they have done.

It is even more outrageous when one considers what our Prime Minister—the Prime Minister of the United Kingdom—been saying for the past 18 months. I shall remind the House of one or two of his quotes—not all because there are loads of them. There are many examples and I suggest that noble Lords, particularly those on the Government Benches, would do well to reflect on some of those comments, read what he said, think about them and consider what they will do in terms of the how they are being whipped to vote. The PM said on 30 October 2019:

"I know that progress is not as fast I should like, but I am pleased to say that all such buildings owned by central and local government have now had their cladding removed, are undergoing work to remove it, or, at the very least, have such work scheduled. In the private sector, progress is slower, and too many building owners have not acted responsibly."—[*Official Report*, Commons, 30/10/19; col. 379.]

He also said:

"My hon. Friend is absolutely right to draw attention to this injustice and what is happening with leaseholders at the moment. That is why we have put £1.6 billion into removing unsafe cladding. I do not want to see leaseholders being forced to pay for the remediation, and I can assure my hon. Friend that we are looking now urgently—before the expiry of the current arrangements—at what we can do to take them forward and support leaseholders, who are in a very unfair position."—[*Official Report*, Commons, 9/12/20; col. 842.]

That was the Prime Minister on 9 December 2020. He subsequently said:

"We are determined that no leaseholder should have to pay for the unaffordable costs of fixing safety defects that they did not cause and are no fault of their own."—[*Official Report*, Commons, 3/2/21; col. 945.]

Everyone would agree with that. That was the reply of the Prime Minister to the Leader of the Opposition on 3 February this year. That is just three quotes but there are many others that noble Lords should look at. Those are the quotes but we then come back to the reality of where we are, which is something different, is it not? It goes on and on.

What is shocking for me is that whenever the Government are provided with the means, through the Fire Safety Bill, to do what they promised—what the Prime Minister promised—they vote against it. We get excuse after excuse after excuse from the noble Lord, Lord Greenhalgh, or at the other end about why the Prime Minister cannot do this and why the Government cannot deliver on their promises.

8.15 pm

Frankly, some of these excuses are feeble. "It's not the right Bill" is regularly trotted out. I have been in this House for 11 years and have seen some absolutely dreadful Bills from the Government. Look at the dreaded Housing and Planning Act: appalling legislation, poorly put together on the back of a cigarette packet and pushed forward by then Prime Minister David Cameron, only to be dumped virtually completely by Theresa May when she assumed office. Or the useless Fixed-term Parliaments Act that proved totally pointless and delivered nothing. Or the ridiculous decision not to go for higher building standards to make homes carbon-neutral, only to completely reverse the position a couple of years later and actually want to do that. Or the rogue landlords database that the Government repeatedly refused to let the public have access to, only then to change their mind but say, "We're really sorry but we can't find the time to actually make the change."

I fully respect the conventions of this House and the primacy of the other place, but that does not prevent us keeping on raising this scandal and speaking up for the innocent victims—the people who play by the rules, pay their taxes, pay their council tax, go to work, work hard and expect better from their Government. They are not getting that today.

This issue will not go away. In this House and the other place we will confront the Government with the reality of their absurd position. With the victims of this scandal, we will force the Government to honour their promises and pledges. People in this country have had their eyes opened to the actions of the Prime Minister and his Government, and they are not going to be fooled by all the pledges, promises and desire to do things when they actually do nothing. Yes, we have finally found them out. The country has found them out. I beg to move.

The Deputy Speaker (Lord Lexden) (Con): If Motion A1 is agreed to, I cannot call Motion A2. I call the noble Baroness, Lady Pinnock, to speak to Motion A2.

Baroness Pinnock (LD) [V]: My Lords, I remind the House of my interests as a vice-president of the Local Government Association and a member of Kirklees Council.

Throughout the course of this Bill, I have said that I support its contents and purpose. I cannot support the unintended consequences that will have a devastating impact on individual leaseholders and a very damaging effect on the housing market. Those are the reasons for my asking again for the Government to take responsibility for the consequences of this Bill, which despite the Minister's best efforts has been totally underwhelming so far. Promises have been made by the Government and not kept.

[Baroness Pinnock]

The Government's response to date is to provide grant funding of £5 billion while knowing that the total cost is estimated at £16 billion. The grant includes only blocks over 18 metres and only removes the flammable cladding. For those in lower blocks, there is the prospect of paying up to £50 per month for years to come.

Conveniently, the Government fail to take into account the non-cladding issues that are a result of construction failure of immense proportions. These non-cladding issues are the ones that will finally push individuals over the edge. Meanwhile, those who have literally built this catastrophe walk away with their billions of profit. The Government have a duty to protect their citizens—it is their prime duty—yet here we are today with perhaps a million of our fellow citizens being thrown to the ravages of financial bankruptcy, and the Government wash their hands and look the other way.

The Government will argue that the Bill is a vital response to the Grenfell tragedy. It is so vital that it has taken four years to get to the statute book. The Bill's purpose is to include external walls, doors and balconies in the fire safety order of 2005, so that action is taken to protect people from another Grenfell tragedy. However, a Bill is not now needed to force action to remove cladding; that is happening. It is not needed to get fire alarms put in; that is happening. Those who own the buildings, and those who are leaseholders and tenants, already know that action has to be taken to make their buildings safe. It is no longer urgently necessary to get legislation to force the issue and it is no longer possible to force construction firms to take the necessary action; there is not capacity to do so. If, though, the Bill does fall, this provides a breathing space for the Government to develop a package of further measures that will protect the interests of leaseholders and save them from penury.

The amendment in my name seeks to achieve that breathing space. It is based on the original one in the name of the right reverend Prelate the Bishop of St Albans and has been adjusted to include the various very valid points that have been made during the passage of the Bill. We must all recognise that passing this Bill will not magic away the crisis that individual leaseholders are facing. It will not remedy the construction scandal. It will not provide stability for a foundering housing market. It will be the beginning of a scandal of individual bankruptcies, homelessness, intense stress and mental illness. It will become a public scandal and I for one will at least have on my conscience that I have done all in my power to prevent it. Leaseholders have done everything right and nothing wrong. Liberal Democrats will stand by them. I give notice that I wish to test the opinion of the House on the amendment in my name.

The Earl of Lytton (CB) [V]: My Lords, as we seem to be in the last chance saloon, I will try not to repeat myself too much, but declare my interests as both a property professional and a vice-president of the LGA. As I said yesterday, the House seems to be presented by the Government with a choice. On the one hand is the evident desirability of implementing fire safety measures in pursuance of the valuable recommendations in the report by Dame Judith Hackitt into the Grenfell tragedy, plus a partial solution to some of the effects of cladding replacement on a limited class of taller buildings, as we have heard. On the other is what I am afraid I must describe as the effective hanging out to dry of hundreds of thousands, if not millions, of other home owners. It should not be a question of either/or in dealing with a growing and pressing social and economic disaster. I too support improved fire safety, but not on the basis of creating further untold, and probably unquantified, problems.

Yesterday, the Minister endeavoured to persuade us by saying that this brief and simple Bill merely clarified the Regulatory Reform (Fire Safety) Order 2005. I am afraid to say that, on my own rereading of that, he is plainly mistaken. This Bill amends the scope of the fire safety order by inserting an exception to paragraph 1a, referring in turn to two newly inserted paragraphs, 1A and 1B, that substantially expand the scope of the order. The fact that anything was attached to the named elements means the Bill has far wider implications than might be supposed. So I am afraid to say that the Minister's assertion really did it for me. I felt it was misleading and what my late father would have described as an exercise in intellectual sharp practice. My distinct impression is that I am being taken for some sort of fool. The indisputable fact that must be regarded as plain is that this Bill makes the changes that by direct chain of causation have created the issues and caused the results that the noble Baroness, Lady Pinnock, and the noble Lord, Lord Kennedy, seek to resolve.

Another issue appears to be one of definition. The Government are concerned that any scheme that might be put in place could be used to avoid regular maintenance and routine upgrades. The amendment of the noble Baroness, Lady Pinnock, in particular, seeks to address that. In my experience there may be grey areas, but I do not have any difficulty in my work in distinguishing repairs and the like, or like-for-like replacements, from those items that are improvements. Nor do most leaseholders and property owners.

Let us be clear—and here I take a cue from the noble Lord, Lord Kennedy, for a bit of historical background—that it was on the watch of a Conservative Government that the 1984 Building Act brought in the approved inspector regime and the effective privatisation of the regulatory oversight of construction quality, previously exercised by local authority building control. Despite indicators of shortcomings and shortcutting, this process continued, without adequate checks on who was doing the inspection of the works, or how good the oversight was in practice. It is on the basis of the subsequent 37 years of construction and its legacy of known and unknown deficiencies, scattered randomly about the nation's housing stock, that modern housebuilding, construction warranties, lending and home ownership have been founded.

If the Government consider that they need to take steps to protect the valiant and much-abused postmasters from system failure, how can they, with it any cogency or conscience, make a distinction concerning a far greater number of home owners who are affected at least as severely? So, while I note that the Minister in

the other place this afternoon sought to point the finger at the unelected Lords blocking the democratic decision of the Commons, I simply say that the exercise of raw political power vis-à-vis the party whip to procure a majority in the Lobby does not endow the Government with a moral superiority, or indeed the social advancement of justice and ethical treatment of citizens. I note the reasons for rejecting our amendments, which simply translate as "too difficult". I suspect not half as difficult as picking up the bits after this has rolled itself out.

At one point I believed the Government had it hand to corral all the potential damage, but I believe they have not done so. It would not concern me if this Bill fell, so unreasonable do I believe its true effects to be, and so lacking is the willingness of the Government to deal with it. What it has proposed will roll out far too slowly: eight months to do the highest-risk buildings, and how much longer to deal with the far greater number in future stages? What about capacity in terms of manpower, training and so on?

I took note of the comments from the noble Lord, Lord Cormack, but I find that sitting on my hands, signifying my acceptance of the Government's position here, does not sit comfortably with my conscience—knowing, as I do from professional experience, just what harm the Bill is likely to do, alongside its undoubted good.

I suspect that the Bill will ultimately pass into law, even if the Parliament Act has to be invoked—but I am afraid I cannot agree to it as it stands. I fear that Lobby fatigue may mean that this is the end of the matter for now. Either way, I shall return to this subject in the new Session—as, doubtless, will the noble Lord, Lord Kennedy, and the noble Baroness, Lady Pinnock. Meanwhile, I have absolutely no hesitation in supporting the thrust of the amendments—any one of them, whichever might gain approval. And I hope I will sleep with my conscience clear as a result.

The Deputy Speaker (Lord Lexden) (Con): My Lords, the following Members in the Chamber have indicated that they wish to speak: the noble Baroness, Lady Fox of Buckley, the right reverend Prelate the Bishop of Rochester and the noble Lord, Lord Newby. I call first the noble Baroness, Lady Fox.

8.30 pm

Baroness Fox of Buckley (Non-Afl): I remind the House of my interests: I am a leaseholder. Like the noble Lord, Lord Kennedy, I heard Boris Johnson telling Parliament in February that

"no leaseholder should have to pay for the unaffordable costs of fixing safety defects that they did not cause and are no fault of their own."—[*Official Report*, Commons, 3/2/21; col. 945.]

To be honest, I cheered. Maybe I was being naive, but I sort of took him at his word—and I sort of still do. But can I? Has anyone briefed the Prime Minister on how his promise to leaseholders is being broken by his own Government as we speak?

In the other place the Minister, Chris Pincher, said that the amendments lacked clarity and prohibited minor costs from being passed on to leaseholders. That was so disingenuous. This is not a load of whiny leaseholders whingeing about minor costs. People are utterly desperate. As we have heard from other noble Lords, this Bill almost guarantees that major costs will be passed on to them—unless the Minister thinks that remediation costs of up to tens of thousands of pounds each, or 400% hikes in service charges, are minor. Those are not minor in my world, nor in the world of so many leaseholders who, as I have stressed here before, bought into that nirvana of home-owning democracy. They were often first-time buyers, who became leaseholders as part of affordable housing schemes.

The Minister in the other place said that the amendment would not help leaseholders. But leaseholders do not feel that way. What they do feel is exasperated. They have been told about the loans scheme, and that this issue can be sorted out by the passage of the building safety Bill. Even then, if there were an assurance from the Government that they would prioritise that Bill as an urgent piece of legislation at the start of the next Session, it might be some consolation. But of course, we do not know when it will appear.

As one group of leaseholders noted in an email to me, the reality is that they are accruing costs now. They are not allowed to postpone paying them until a new parliamentary Session. They cannot say, "Sorry, won't pay until the building safety Bill's got through." They fear that by the time that legislation is passed, many of them will already have lost their homes—and, as one said, "I will certainly have lost my mind."

Earlier today I heard a Minister here justify imposing a set of regulations on the Northern Ireland Assembly, although that would undermine the devolution agreement. He justified that decision because he said that the Government had a duty to ensure that women's rights were addressed, and legal abortion services were made available. I was anxious at this procedural and technical fix to solve a complex constitutional and moral problem. But now, if only the Government would come up with some procedural and technical fix to solve what is undoubtedly a complex problem, but one, in this instance, of leaseholders' rights. There seems to be a sort of stubbornness, which is so unbecoming—a kind of evasiveness, which is kicking this problem down the road, where it will get worse, and letting the most blameless take the hit in the meantime.

I have a lot of respect for the Minister, but I feel as though the Government must know in their heart of hearts—with Tory rebels in the other place, noble Lords from all sides of this House and all the devastating personal testimonies we have shared over the last few days—that what is being asked for here is modest. We are asking for any mechanism, however technical, or any scheme that would actually help leaseholders and save them from bankruptcies now, as is so urgently needed.

We have heard about the £5 billion scheme, and we have all welcomed it, but it really applies only to those in buildings over 18 metres. Leaseholders in buildings of 17 metres or 15 metres are still being asked to pay sky-high costs. As we have heard, it is estimated that the £5 billion scheme still leaves at least £10 billion unaccounted for, and maybe more.

[Baroness Fox of Buckley]

I want to test whether the Government are true to their word—true to the Prime Minister's word that I started with—and ask the Minister a simple question. If this Fire Safety Bill were to pass, what will the Government do in the interim between its passing and the building safety Bill to stop leaseholders' bankruptcies and the negative equity crisis that this Bill undoubtedly helps to create?

Finally, I take this opportunity to say to the leaseholders: you have allies in the other place and here who will continue to stand up for you and keep raising awareness of your plight. I am still hopeful that the Minister and the Prime Minister might be among those allies too.

The Lord Bishop of Rochester: My Lords, the right reverend Prelates the Bishop of St Albans and the Bishop of London have both been involved in earlier stages on the Bill and, regretfully, neither is able to be in your Lordships' House this evening. However, I come with my own background and interests, as a former board member of various housing associations over 25 years and as the former chair of the charity Housing Justice.

As noted by the noble Baroness, Lady Pinnock, the right reverend Prelate the Bishop of St Albans has been heavily involved in this matter and has been persistent. He said yesterday that none of us wanted to be in this position at this stage. But while so much of the Bill is welcome—not least the £5 billion which has been referred to—there are continuing and serious concerns, some of which have already been expressed in the debate this evening, about the position of leaseholders and tenants, and particularly certain groups of leaseholders and tenants.

Yes, remediation is a complex matter, but I am sure that it is not so complex that it cannot be worked out. I want to believe that Her Majesty's Government are sincere in the express desire to protect leaseholders and tenants. The proposed amendments, including one here tonight, are designed to provide time for the Government to bring forward their own statutory scheme. It is the absence of clarity about that scheme and the timetable for it which is the cause of continuing regret on these Benches. Mention has been made already of the loan scheme in relation to buildings under 18 metres and the fact that that is likely to come forward in the context of another Bill. But, of course, that leaves open the questions of the detail and timescale and, as the noble Baroness, Lady Fox, has just observed, there are leaseholders facing those bills today.

We have heard many tragic stories of people with unpayable bills and crippling insurance and service charges. One concern of Members of these Benches is the effect of all that on people's health and well-being, as well as on their financial capacity. These are important matters; they affect people's daily lives, mental state and financial futures. While the Bill tackles a number of really important things, it leaves open some others which leave people facing uncertainty and potentially very significant liabilities.

Whatever happens this evening, I know that many in this place and elsewhere will continue to make the cause, because this issue will not go away. I dare to hope that if the Bill does pass this evening, Her Majesty's Government will bring forward their proposals as soon as possible in the new Session to remove the uncertainty from those who are finding it really difficult to live with. These Benches continue to hold out hope for a more empathetic attitude towards leaseholders.

Lord Newby (LD): My Lords, I begin by declaring my interest as a leaseholder affected by fire safety remediation costs.

This afternoon, I decided to listen to the debate on the Bill in another place to see whether I had been missing something, by just hearing debates here, about the Government's real reasons for not taking any appropriate action. Instead, I found that the key challenges that have been set out by noble Lords this evening were being made most eloquently by Conservative Back-Benchers. Bob Blackman made the key point that leaseholders have no luxury of time to deal with the demands dropping on their doormats today. Sir Robert Neill made the logical and consequential point that bridging provisions to fund remediation were needed, until the Government had put in place measures to recoup the costs from developers and builders—costs to be met, in the interim, by the Government. As a former Minister, he also made the telling point that the Government would have had time to produce their own amendments, if they had put their mind to it.

The response from the Government was from the right honourable Christopher Pincher, who replied with all the empathy and grace of a Victorian miller faced by workers' demands to install expensive safety equipment on all the machinery. He also put the noble Lord, Lord Greenhalgh, to shame in his ability to ape Sir Humphrey. Unlike the noble Lord, who at least shows a certain lack of conviction in some of his adjectives, Christopher Pincher had none. In describing this amendment, as we have heard before, he mentioned the uncertainty that it would cause, the lack of clarity and the litigation that would flow, which would be voluminous. He had us almost in tears at the prospect of these terrible consequences.

There was not a word of explanation as to why, given that the Government allegedly want to do what is right, in the seven months since this Bill's Second Reading they have made no progress whatsoever in bringing forward their own proposals to deal with the issues now. There was not a scintilla of a suggestion, from him, of when there would be certainty for leaseholders. He said that the building safety Bill would be brought forward as quickly as possible and that it would protect leaseholders "as far as possible". Those two statements are of literally no comfort to somebody facing a bill today. We all know that those phrases "as far as possible" or "as quickly as possible" allow the Government to do whatever they want or not very much at all.

He also had the temerity to say that the Bill should now pass,

"so that people can get on with their lives."

The one thing certain is that, if this Bill passes unamended, hundreds of thousands of people will not be able to get on with their lives, because overwhelming uncertainty

will remain over their financial position and their ability, if they wish to do so, to sell the property in which they live.

The truth is that the Government have shown themselves indifferent to the mental and financial anguish faced by these people today, or else they would have made a meaningful commitment to the timetable for lifting the burden of costs and uncertainty from them. In these circumstances, how can we, in all conscience, pack up our tents now and let the Bill sail into the night? We on these Benches will not do so, and I urge Members across the House to vote for my noble friend's amendment to bring tenants the relief that they so richly deserve.

The Deputy Speaker (Lord Lexden) (Con): My Lords, the noble Lord, Lord Adonis, has also indicated a wish to speak, and I call him now.

8.45 pm

Lord Adonis (Lab): My Lords, in *Alice in Wonderland*, Humpty Dumpty says:

" 'When I use a word, … it means just what I choose it to mean — neither more nor less.' 'The question is,' said Alice, 'whether you can make words mean so many different things.' 'The question is,' said Humpty Dumpty, 'which is to be master — that's all.' "

That is exactly the position we find ourselves in today. It is an argument about the meaning of words, which the noble Lord, Lord Newby, in an excellent speech, has just pointed up. If one took the Government's statements and sought to give the usual meaning to the words, then there would not be a problem here this evening.

I noted down what the noble Lord, Lord Greenhalgh, said in his opening remarks: these are just some of the statements he made. My writing is not fast enough to recite his whole speech, but if one took his whole speech, one would think there was no disagreement between us at all. "More needs to be done", he said. "Industry must play its part and pay its way," he said. "I agree that leaseholders need more protection," he said. "Forfeiture," he said—the fact we are talking about forfeiture is a sign of quite how serious a crisis we are facing—"is a draconian measure"; my writing was not fast enough here, but I think he said, "which is to be discouraged." He also said, as the noble Lord, Lord Newby, just said, that these measures will be further addressed in the building safety Bill.

All those statements that the noble Lord made go to the heart of the protection we have been seeking to provide for all of those categories of people affected, not just those who live in buildings of more than 18 metres and not just those with costs directly attributable to cladding if they fall in the category of remediation costs which are essentially post Grenfell. This is the key point, because assessments that have been made about fire risks which are not just restricted to cladding are in the wider areas, some of which are in the expanded fire safety order which the Minister referred to.

The issue then is whether the scheme that the Government have said they will introduce to implement the principles that the Minister himself has set out to the House this evening is adequate to the task. We take the Minister at his word that it will be adequate to the task. There is some disagreement about how far it needs to be legislative and how far not legislative, though the fact that he constantly refers to the building safety Bill leads us to think that it will be substantially legislative. In so far as it is not legislative, these measures could be put in a legislative form, or he could make a categoric statement about when the Government will come forward with a comprehensive scheme.

So far, so good. What happens is that the right reverend Prelate the Bishop of St Albans and his understudy who is here this evening, if I may so describe him—anyway, he seems to be maintaining the line of the right reverend Prelate the Bishop of St Albans—and other noble Lords then consistently, on now about 10 occasions during the passage of the Bill, have come forward with proposals to put into legislative form what the Government themselves have told us they want to do. What happens, because we are now back in *Alice in Wonderland*, is that we pass amendments saying that remediation costs should not be passed on to leaseholders which are attributable to the additional costs which have come post Grenfell, and then the Government come along and say, "Ah, but this does not take account of the following five concerns."

These are the concerns that the noble Baroness, Lady Fox, just mentioned about small costs, concerns about defining costs, concerns about costs which might be attributable to leases which applied and which tenants willingly engaged in before there were any additional costs put forward—we had a whole list of issues that were raised. What then happens is that the ever-receptive Bishop of St Albans, and other noble Lords change the amendments to take account of the Government's concerns. Indeed, the amendment of the noble Baroness, Lady Pinnock, this evening meets most of the concerns that have been raised by Christopher Pincher in the House of Commons and by the noble Lord, Lord Greenhalgh, here.

It is worth dwelling on this, because these are hugely important issues potentially affecting millions of people, so we ought to be clear about it. Under the noble Baroness's amendment, proposed new subsection (1) states:

"The owner of a building may not pass the costs of any remedial work attributable to the provisions of this Act"—

so defining clearly what should and should not apply. Proposed new subsection (2) states that the prohibition on remediation costs being passed on to tenants will have effect

"only until a statutory scheme is in operation which ensures that leaseholders and tenants of dwellings are not required to pay more than £50 per month during the course of the lease",

but it does not apply to a cost that

"is permitted under a lease or tenancy agreement that was made before this Act is passed, and … does not exceed £500, whether as a one-off cost, or in total across a 12-month period."

This meets the concerns that the Minister has raised, unless he does not propose to bring forward a scheme that meets his commitments in due course, which is the reason why we go round in circles again.

We then come out of Alice in Wonderland and into the real world. In the real world, we all know what is happening. It is not a secret to those of us who are

[Lord Adonis]
politicians what arguments have now been happening for two months. Two things are happening. First, a battle royal is going on between the Minister's department and the Treasury about what costs the Treasury will meet and how narrowly defined they need to be. The Treasury is already concerned about the size of the fire safety fund, the £5.1 billion fund which the Minister referred to, and whether the costs even under that scheme will end up being significantly higher. It certainly does not want more costs to be recognised. The second thing going on of which we are all well aware is that, although the Government say—because huge numbers of people are affected by this, many of them first-time buyers, many of them who have, under Conservative schemes, bought council properties and are leaseholders—that they want to see them fully protected, they do not at the moment either have a plan to fully protect them nor, to be blunt, do they want to protect them any more than they think is politically necessary to get this and subsequent legislation passed, presumably in the run-up to the next election, in a judgment they make on the salience of the issue.

We then come to the role of this House, which is unusual in this case. We had a lecture from the Chief Whip earlier about the supremacy of the House of Commons, which we all recognise, but the supremacy of the House of Commons is in this instance qualified in two respects. The Salisbury convention is clear that the supremacy of the House of Commons applies to all matters which the Government have placed in their manifesto. This House does not seek to cut across clear manifesto commitments which the Government have made when they want to realise them. The Government's commitment at the election was to sort out this issue; it was not not to sort out this issue. If we take that reading of the role of this House, we will actually be implementing the Salisbury convention this evening if we pass the amendment of the noble Baroness, Lady Pinnock. We are seeking to hold the Government to their manifesto commitments to the people, not going against them.

The other reason why we are back in Alice in Wonderland in respect of the role of this House is that, when the Minister and the Chief Whip said this evening that the Bill will fail, it will fail only if, in response to the amendment being carried, the Government choose to let it fail rather than accept an amendment that puts into law the very commitments that they have said that they propose to meet.

We are in a conundrum as to what to do. If we vote for the amendment of the noble Baroness, Lady Pinnock, we be voting for something that will indeed send the measure back to the House of Commons and could, if the Government refused to give way, lead to the fall of the Bill. That is entirely in the hands of the Government. However, it is manifestly not the case that we are breaking the Salisbury convention, it is manifestly not the case that we are going against the commitments that the Government themselves have given, and it is manifestly not the case that we would be the cause of the Bill falling. The Government would be the cause of the Bill falling, because they were not prepared to accept the amendment.

We all have judgments to take as to how to vote, and I respect people who take different views on this issue, but it is very clear to me that this is not about the supremacy of the House of Commons. As the noble Earl, Lord Lytton, said, in what I have to say is the most impassioned speech I have heard him deliver to the House, this is a matter of the good faith of the Government and whether, when they say something, they mean it. If this House has any role to play, it is to see that high standards of conduct in public life are maintained, that Governments are held to commitments that they give and that the ordinary meaning of words should be taken to apply when they are uttered by Ministers.

Lord Greenhalgh (Con): My Lords, I will not trade *Alice in Wonderland* anecdotes with the noble Lord, Lord Adonis, but I take issue with the point made by the noble Lord, Lord Kennedy, and the noble Baroness, Lady Pinnock, that this Government and Prime Minister have done nothing or sat on their hands.

The reality is that I was appointed a Minister, a little over a year ago, into this role. The previous Government had first committed £400 million and then, very reluctantly, an additional £200 million towards the costs of remediating the same cladding that was on Grenfell Tower—aluminium composite material. In the month I was made a Minister, the Chancellor committed a further £1 billion. Now this Chancellor and Prime Minister have committed a further £3.5 billion, taking the total funding to an unprecedented £5.1 billion. It is simply not correct to say that we are doing nothing; that is a considerable sum of money and a massive commitment to recognising that we need to dampen the impact of the costs of remediating the unsafe cladding—the major fire accelerant on these buildings—so that a tragedy like the Grenfell Tower fire never happens again.

I also take issue with the noble Earl, Lord Lytton, whose contributions I really enjoy; he is a property professional who speaks with great passion. The reality is that I spent the last year at the coalface, dealing with the tail of building owners who do not want to get on with the remediation—even when the funding is in place. There are two enforcement routes to get them to move even when they do not want to: one is the Housing Act 2004 and the other is the current fire safety order of 2005. It is recognised as an enforcement route, even for external cladding systems; it is just that some fire and rescue authorities feel that it is too ambiguous. That ambiguity, lack of clarification and operational disagreement between different fire and rescue services—I say this as Fire Minister—is a significant problem. However, one reason that remediation is happening today is that enforcement options are in place and this modest three-clause Bill is a very sensible clarification of the fire safety order of 2005.

We are at an impasse. I hope that we may get this vital Bill through, because it is important to get that legal clarity I have referred to. The safety of leaseholders and residents is paramount, and it will be compromised if we do not ensure that this Bill is placed on the statute book by the end of this Session. Tonight is the moment to decide that very fact. The Bill falling will not help leaseholders or make homes safer.

I turn to the amendment from the noble Lord, Lord Kennedy. It lacks clarity in prohibiting all kinds of remediation costs being passed on to leaseholders. It means that, where costs are minor, as a result of wear and tear, or even where leaseholders are responsible for damage, they would still not be expected to pay, which is not a proportionate response. I think all Members would agree that the taxpayer should not pay for all and every cost associated with remediation. The scope is far too broad to be a sensible solution.

In several ways, this amendment has the potential to make things worse for leaseholders; for example, it is unclear who should take responsibility for remediation works until a statutory funding scheme is in place to pay for the costs. This would result in all types of remediation being delayed, which is an unsatisfactory outcome for leaseholders. Practically speaking, on the amendment's requirement to deliver particular requirements to Parliament within 90 and 120 days, we must be mindful that drafting legislation is a complex matter, which cannot be dealt with in the timeframe proposed. I note that the noble Lord is unlikely to press for a Division this evening, so I will not go any further, but to impose an arbitrary deadline, as stated, is neither helpful nor practical.

9 pm

I turn to the amendment proposed by the noble Baroness, Lady Pinnock, who has indicated that she wishes to test the will of the House. We see the same key elements of this amendment time and again and the other place has voted it down time and again. The same issues apply with this amendment. It lacks clarity, which will lead to delay. The scope is too broad and there are practical issues. For instance, regardless of blame and whether it is remediation or wear and tear, it seems like no leaseholder will ever have to pay more than £600 a year. What if a leaseholder is responsible for an attempt at renovations that is picked up in a fire risk assessment and has damaged part of the structure of the building? Is the noble Baroness really suggesting that the leaseholder should not pay for that?

A number of noble Lords have asked the Government to come up with their own wording to deal with this issue but, as I have stated before, the Fire Safety Bill is simply not the right place for these amendments. It does not have the legal underpinning to carry them. This issue does not belong here.

I place on record once again this Government's commitment to an unprecedented sum of £5.1 billion to protect leaseholders from the costs of remediating unsafe cladding. We are committed to developing stronger avenues for redress and we are ensuring that developers contribute through our high-rise levy and developer tax.

In answer to the right reverend Prelate the Bishop of Rochester, it is quite clear that the ability to deliver and provide grants will be via the building safety fund, which is in operation today. If it is helpful, I can put on record that the financing scheme does not have to await any statutory passage of the building safety Bill and will be available as a very important way of protecting leaseholders in medium-rise buildings.

The only thing that would require statutory underpinning in terms of supporting leaseholders is the high-rise levy that would form part of the regime to collect a levy for those buildings that would be considered high risk at that point. That would form part of the building safety Bill. The vast majority of this does not have to wait for the building safety Bill to be passed. The building safety Bill will be helpful to strengthen redress and make it clear what charges can passed through to leaseholders to protect them from charges that they should not be paying for.

This Government always have been and will continue to be committed to delivering the recommendations of the Grenfell Tower inquiry. I respectfully urge noble Lords to reject the noble Baroness's amendment. I reiterate that if we do not move forward with the Fire Safety Bill and get it passed tonight, it will fall and the Government will not be able to deliver the inquiry's recommendations in relation to external walls and flat entrance doors. Ultimately, this means that the safety of residents and leaseholders could be compromised. I beg to move.

Lord Kennedy of Southwark (Lab Co-op): My Lords, I thank all noble Lords who have spoken in this debate tonight. It is worth pointing out that for the second day in a row debating these issues not a single Member of the Government Benches has come forward to support the noble Lord, Lord Greenhalgh, or the Government's position. As I said yesterday, I am not surprised because the position of the Government, frankly, is a disgrace and is totally outrageous.

The Government claim that we have not got this amendment right, it lacks clarity and we do not have the time. If we were going to accept that as a serious proposition, we would not have had this Bill just sitting there for weeks and weeks not being tabled by the Government. After it was rejected by the Commons it could have been brought here. They chose not to table it. They left it sitting there. I really do not think that point holds water.

Of course, the problem for the noble Lord, Lord Greenhalgh, is that the sums of money pledged—and I accept that they are considerable—do not deliver the Prime Minister's pledges, or do his pledges count for nothing? I will leave that there. He makes a lot of promises and pledges. I hope they count for something or do they count for nothing?

If voting again for this amendment would change anything, I would divide the House, but I am also not prepared to mislead those affected that we can force the Government to change this Bill. Sadly, the Government are not listening and the House prorogues tomorrow.

This issue, however, will not go away. The Government will be forced to do the right thing by the leaseholders, by the campaigners, by the Cladiators and by Members of this House and the other place. They will be dragged kicking and screaming to do what the leader of their party, the Prime Minister of the UK, pledged to do. I quote the Prime Minister—I think that the House will hear this quote time and again, until the Government do what he promised. He said:

"We are determined that no leaseholder should have to pay for the unaffordable costs of fixing safety defects that they did not cause and are no fault of their own."—[*Official Report*, Commons, 3/2/21; col. 945.]

[Lord Kennedy of Southwark]
That was the Prime Minister of the United Kingdom and leader of the Conservative Party, the right honourable Boris Johnson MP, in response to a question put to him by the Leader of the Opposition on 3 February. That statement was made after this Bill had been through both Houses and three weeks before the Government, in the other place, rejected our amendments for the first time. The PM's Government voted against the PM's pledge—his promise—at every opportunity. The position is, frankly, ridiculous; what complete and utter nonsense has come from the Government.

As I said, I will not test the opinion of the House on my Motion tonight. This issue, however, will not go away, and the Government will have to deliver on their pledges and promises. I beg leave to withdraw the Motion.

Motion A1 withdrawn.

Motion A2 (as an amendment to Motion A)
Moved by ***Baroness Pinnock***

At end insert "but do propose Amendment 4N in lieu—

4N: After Clause 2, insert the following new Clause—

"Prohibition on passing remediation costs on to leaseholders and tenants pending operation of a statutory scheme

(1) The owner of a building may not pass the costs of any remedial work attributable to the provisions of this Act on to leaseholders or tenants of that building.

(2) This section has effect only until a statutory scheme is in operation which ensures that leaseholders and tenants of dwellings are not required to pay more than £50 per month during the course of the lease in respect of remedial work attributable to the provisions of this Act.

(3) Subsection (1) does not apply to a cost that—

(a) is permitted under a lease or tenancy agreement that was made before this Act is passed, and

(b) does not exceed £500, whether as a one-off cost, or in total across a 12-month period.

(4) Subsection (1) does not apply to a leaseholder who is also the owner or part owner of the freehold of the building.""

Baroness Pinnock (LD) [V]: I thank all noble Lords for another excellent debate—the fourth in the series—and their contributions tonight.

Again, the tune from the noble Lord, Lord Greenhalgh, the Minister, has not changed—it is the same old record: "This is not the right Bill". Well, if it is not the right Bill, where is the Government's Bill to address the horrendous problems that are going to be faced by leaseholders? Where is the Bill that will keep the Government's pledge that leaseholders would not have to face the unaffordable consequences of fire safety defects? Where is it? Its absence tells us more than anything else about the Government's commitment to help leaseholders.

To pledge, as the Minister has done, that the building safety Bill will pave the way, forgets the fact that bills are landing on doormats as we speak. Time is of the essence, and still the Government refuse to move. It is a thoroughly depressing moment when people can be thrown to the wolves in order to save the Treasury from paying what it ought to pay and extracting what it ought to extract from those who have caused the problem. The construction scandal—the cladding crisis—is the Government's, and the Government's alone.

I thank the Minister for his criticisms, once again, of the amendment I have proposed today. I just wish he would do something about it rather than saying that he cannot do this and cannot do that. What is he going to do?

I have taken heart from the impassioned speech by the noble Earl, Lord Lytton. He is an expert in the housing field and has frequently shared his expertise in this House. The fact that he too cannot in all conscience vote for the Fire Safety Bill as it stands, unamended, gives me heart that we have got this in the right place from the point of view of those of us who want to protect people from exorbitant costs of putting right fire safety defects.

I will say one last word. Let us remind ourselves that leaseholders are those that have done everything right. They have saved up for their house, put down the deposit and budgeted for the expenses they anticipate. They have done everything right and nothing wrong, yet the Government—and, it seems, others in this House—are willing to make them pay the price. That is not acceptable, and the Liberal Democrat Benches will not stand by and let it happen if we can help it. It is a depressing moment, as I believe the noble Lord, Lord Kennedy, has indicated that he is not prepared to vote for the amendment to try to get safeguards for leaseholders. He has thrown in the towel, and I find that disappointing and utterly depressing.

However, with those words, I am prepared to have one more go to try to protect leaseholders and, indeed, tenants from the awful, if unintended, consequences of this Fire Safety Bill. I wish to seek the opinion of the House and I beg to move.

9.11 pm

Division conducted remotely on Motion A2

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Motion A agreed.

Arrangement of Business

Announcement

9.25 pm

The Deputy Speaker (The Earl of Kinnoull) (Non-Afl): My Lords, for consideration of the Commons reason on the National Security and Investment Bill, I will call Members to speak in the order listed. There is no counterproposition. The only speakers are those listed, who may be in the Chamber or remote. Members who do not intend to speak should make room for Members who do. All speakers will be called by the chair.

Short questions of elucidation after the Minister's response are discouraged. A Member wishing to ask such a question must email the clerk. When putting the Question, I will collect voices in the Chamber only. As there is no counterproposition, the Minister's Motion may not be opposed. We will now begin.

National Security and Investment Bill

Commons Reason

9.26 pm

Motion A

Moved by ***Lord Callanan***

That this House do not insist on its Amendments 11B and 11C, to which the Commons have disagreed for their Reason 11D.

11D: Because it is appropriate and sufficient for oversight and scrutiny of decisions made by the Secretary of State for BEIS to be conducted by their departmental select committee.

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Callanan) (Con): My Lords, here we are again. We return once more to parliamentary scrutiny of the National Security and Investment Bill. It is of course always a pleasure for me to be in your Lordships' company, so to be here twice in one day on this legislation and once on a Statement repeat is obviously a treat of the highest order.

Noble Lords will have seen that the other place once again rejected the amendments put forward by the noble Lord, Lord West, by a further significant margin. Let there be no doubt that I welcome and value the considerable expertise that noble Lords have put into their amendments and proposals. In addition to their expertise, I now have the opportunity to further compliment their stamina and resolve.

However, as I said earlier today in this House, in our view the BEIS Select Committee remains the most appropriate committee for scrutinising the operation of this regime by the Secretary of State for BEIS. I have already put forward the Government's arguments in this regard on a number of occasions, so I will not try your Lordships' patience much further. Assurances have now been provided, both in this House and the other place, that there will be no barriers to effective scrutiny by the BEIS Select Committee. In particular, its handling of material, be it confidential or classified, will be appropriately dealt with.

I know your Lordships have some scepticism on this claim. I am not sure what else I can say to reassure noble Lords, other than that my department will work closely with the BEIS Select Committee and its chairman to ensure that effective scrutiny can and will take place. Of course, there will be times when further scrutiny by other committees is appropriate—for example, the Science and Technology Committee or even the Intelligence and Security Committee. As this House has heard in previous debates, there is also nothing stopping these committees carrying out the important work that falls within their respective remits.

I now look to this House to respect the clear wishes of the other place and to acknowledge our rapidly dwindling time to pass this essential Bill. I therefore hope that this House will now support the Government's Motion and allow the Bill to pass. I beg to move.

The Deputy Speaker (The Earl of Kinnoull) (Non-Afl): The noble Lord, Lord West of Spithead, has withdrawn. Accordingly, I call the noble Lord, Lord Fox.

9.30 pm

Lord Fox (LD): My Lords, the sands of dissent are passing through the hourglass of incredulity. The Minister is right; there has been a long debate. It is very nice to hear that he values the expertise and that he has been able to hear it. It is disappointing that, having valued it, he considers it insufficiently valuable to take the advice that the expertise came up with.

Some time between our last meeting and this one, an email came through from Darren Jones, the chair of the Business, Energy and Industrial Strategy Committee, setting out the fact that an MoU has been exchanged on the subject that we are debating. There is one curious sentence in there, which states:

"I have had to protect the position of my own committee …".

It is late and I will not press that, but it smacks a little of someone being strong-armed, which is a shame.

The other sentence comes at the end of the email's penultimate paragraph, which states:

"Should my Committee find any of our scrutiny of the Investment Security Unit is inadequate, we will of course make that clear on the record."

That is somewhat reassuring. I know that Darren Jones is someone whom one can trust, and I am sure that if he and his committee find that to be the case, that is what will happen and we will of course be listening and watching for it.

We look forward to the Statement being brought forward for debate in both Houses as a consequence of the Bill, and we look forward to debating the technologies that will be put into the Bill.

Baroness Hayter of Kentish Town (Lab): My Lords, it is a treat for us to have the Minister here again. He says that there is some scepticism in the House about this matter. I think that there is some mystification, actually. It is said that when he heard about Talleyrand's death, Metternich said, "What did he mean by that?" There is a bit of me that, as a historian, wonders how historians looking at this in the future will ask, "What was going on? What did they mean by that?"—to have such a squabble, and to go back and forward at the end of a Bill that we all agree is important, over the possible addition of five words in a memorandum of understanding. That is what we have got down to. And I remain mystified. One day, maybe long into the future, when the noble Lord and I have gone on to other things but are still in the land of the living, we may sup together and hear what was really behind the resistance to amending the memorandum of understanding simply to allow one committee to look at the work of the unit.

Having said that, we are pleased that we are now at the end of the Bill. We wish it and the new unit in the Minister's department well. We talked previously about the number of notifications that it may have to deal with. There is a real challenge there. We seriously wish that unit well as it begins to take on and embed what this soon-to-be Act will enable it to do.

Lord Callanan (Con): My Lords, the hour is getting late and I will not try your Lordships' patience. It remains for me to thank the last two indomitable warriors on this subject, the noble Lord, Lord Fox, and the noble Baroness, Lady Hayter, once again for their help, support and the valuable scrutiny that they have provided to this legislation.

The legislation has changed as a result of your Lordships' efforts. I know that there will be disappointment in those noble Lords' parties that we were unable to agree on this final point but, nevertheless, the House has done its work well. The Bill has been improved as a result of the work of this House, but it is now time to let this matter rest. As I set out earlier, the Government have made their case. Noble Lords will be pleased to know that I will not repeat that case, which was made both in this House and the other place. Let me finish by saying that I appreciate the strength of feeling on this matter and I am sure that we will have further discussions as the work of the ISU takes place. We must now ensure that the Bill is passed.

Motion A agreed.

House adjourned at 9.36 pm.

Grand Committee

Wednesday 28 April 2021

The Grand Committee met in a hybrid proceeding.

Arrangement of Business

Announcement

2.32 pm

The Deputy Chairman of Committees (Baroness Healy of Primrose Hill) (Lab): My Lords, the hybrid Grand Committee will now begin. Some Members are here in person and others are participating remotely, but all Members will be treated equally. I ask Members in the Room to respect social distancing. If the capacity of the Committee Room is exceeded or other safety requirements are breached, I will immediately adjourn the Committee. If there is a Division in the House, the Committee will adjourn for five minutes. I remind speakers to manually press on their microphones before speaking. The time limit for the following debate is three hours.

Integrated Review: Development Aid

Motion to Take Note

2.33 pm

Moved by ***Lord Alton of Liverpool***

That the Grand Committee takes note of the reduction in United Kingdom development aid and its impact on achieving the objectives outlined in the Integrated Review of national security and international policy.

Lord Alton of Liverpool (CB): My Lords, I express my thanks to colleagues on the Cross Benches for choosing this Motion for debate, but also to the many Members from all parts of the House participating today. They all bring significant expertise and knowledge to our proceedings, including the noble Lord, Lord Purvis, the sponsor of the International Development (Official Development Assistance Target) Act 2015, and former Ministers, including my long-standing friends the noble Baronesses, Lady Chalker and Lady Northover, and the noble Baroness, Lady Sugg, who with great principle and honour resigned her post in protest at the abnegation of the Act. I also thank the Library for the excellent note prepared in advance of the debate, and draw attention to my role as an officer of several relevant all-party parliamentary groups.

In 1970, as a student, I campaigned for the implementation of Resolution 2626 of the United Nations, urging developed nations to raise their aid contribution to 0.7%, and in seven parliamentary elections which I contested in Liverpool always committed myself to voting in Parliament to support that target. The Motion enables us to reiterate our commitment to what is, after all, a long way short of the injunction to tithe; to drill down into the integrated review's objective for the UK to be

"a force for good in the world";

and to ask how that claim can be squared with a precipitous cut in development aid from 0.7% of GNI to 0.5%. I hope that the Minister will tell us whether he agrees that the estimate of a £4 billion cut in real terms is correct.

In response to today's debate, the Minister will be pressed on the central question: whether the Government intend to introduce legislation to reduce ODA funding this year and, if not, how they intend to ensure that they are acting lawfully and in accordance with their statutory obligations. I particularly look forward to the speech of the noble and learned Lord, Lord Garnier, who will address that point further.

Yesterday, Dominic Raab, the Foreign Secretary, appeared before the International Relations and Defence Select Committee. He has previously said that

"we will need to bring forward legislation in due course."

Does that remain the case? If the Government's position is now that legislation will not be necessary because 0.7% will be restored when fiscal circumstances allow, can the Minister describe the fiscal criteria that will be used to permit a restoration to 0.7%? By sleight of hand the temporary could, as we all know, so easily become permanent.

The immediate fiscal criteria do not look very promising. The Office for National Statistics says that in 2020 we recorded our worst economic performance in more than 300 years, with the economy contracting by 9.9%. But if times are tough and require draconian cuts, how do we square these cuts in aid with the cost of increasing the number of nuclear warheads—also announced in the review and in contravention of our non-proliferation commitments?

Even before these drastic cuts in ODA, we were confronted by the reality of a smaller cake, but our spending priorities and life-and-death decisions should have been shaped by parliamentary scrutiny and informed by a review—not, as with the merger of DfID and the FCO or swingeing cuts to ODA, retrospectively justified by one. As my noble friend Lord Hannay said last week, the cart has preceded the horse.

Circumventing legislation, avoiding scrutiny, curtailing debate and upending due process and good governance lead to bad decisions. Many of us are jealous of the role of Parliament and object when we see it diminished. The noble Baroness, Lady Anelay of St Johns, chair of the International Relations Committee, on which I serve, specifically points to what she calls the review's

"lack of consistency in the approach to relations with countries in Africa"—[*Official Report*, 22/4/21; col. 1986.]

and the failure to provide details of the effects on individual countries. Today, I hope the Minister can rectify that lack of detail—cut by cut, sector by sector, country by country. Concealing these details from Parliament is simply unacceptable.

In a curious, largely undefined, phrase the review says:

"We will be active in Africa".

What will this mean in Tigray, in anglophone Cameroon, in ravaged Mozambique, in South Sudan, in northern Nigeria and in combating the rise of Jihadist ideology? What is the review's justification for switching emasculated resources from west Africa and the Sahel? Ahead of this debate I drew the Minister's attention to UN

[Lord Alton of Liverpool]
estimates that, in the Horn of Africa, some 4.5 million Tigrayans urgently require emergency and life-saving assistance and that over 2.5 million children are malnourished. People are being starved to death and, in terrible massacres reminiscent of Darfur and Rwanda, there have been brutal killings and an estimated 10,000 women raped. Unbelievably, some Tigrayans have fled to Yemen, believing that they will be safer.

As the noble Lord, Lord McConnell, will no doubt remind us, development is impossible without conflict resolution. Is it the case that the Conflict, Stability and Security Fund has been cut by a staggering £363 million —by 50%? That will merely add to the 70 million people displaced worldwide, making no sense in terms of our security, let alone our humanitarian duties.

Consider Yemen, where the FCDO's Chris Bold says that aid has been cut by 50%. Millions are facing starvation and food insecurity. Around half of all children under five in Yemen—2.3 million—are projected to face acute malnutrition in 2021. Nearly 400,000 are expected to suffer from severe acute malnutrition and could die if they do not receive urgent treatment. No impact assessment was made of the effect of the cuts on vulnerable groups such as women, children, people with disabilities or displaced people. Why not? This is downright irresponsible. In an excoriating remark, Mark Lowcock, the UK's first special envoy for famine prevention, said that we are trying to

"balance the books on the backs of the starving people of Yemen".

Bilateral programmes in Yemen, Syria and Sudan will be disproportionately affected as it is harder to extricate the UK from multilateral programmes, so funding is lost merely because it is allocated through the wrong line. Yet in yesterday's welcome session with the Foreign Secretary, he said that the Government were not salami slicing. He was asked about his seven strategic criteria for the FCDO: climate change, Covid, girls' education, science and technology, open societies, humanitarian assistance and trade.

Measure the criteria against resources and the random way in which it has been done. Girls' education, an FCDO priority, will be cut by 25%. Save the Children says that humanitarian preparedness and response will be cut by 44%, despite 200 NGOs warning that more than 34 million vulnerable people will face famine or famine-like conditions.

CSW says that

"spending on the newly formed Open Societies and Human Rights directorate"

is set

"to fall by as much as 80%."

The FCDO priorities of promoting freedom of religion or belief and media freedom no longer specifically appear in the criteria. Will their programmes be reduced? How will the John Bunyan fund and the Magna Carta fund be affected?

This morning, Sky News reported that a memo prepared for Minister Wendy Morton estimates that bilateral funding for water projects in developing nations will be cut by 80%. Clean water, handwashing and good hygiene are critical defences in the fight against coronavirus, which has claimed 3 million lives globally, and today we think especially of our friends in India. Since 2015, the UK has helped over 62.6 million people gain access to safe water and sanitation. That is something to be incredibly proud of, not to curtail.

Ahead of Glasgow's COP 26 summit on climate change, we must not lose focus on water security. My noble friend Lady Hayman will doubtless remind us of this and how our ODA contributes to the defence of the planet. The Royal Society says that we are weakening those defences, with global programmes in science cut by—in its figures—well over £500 million and the UK no longer regarded as a reliable partner.

Meanwhile, Devex reported yesterday that funding for polio eradication will be cut by a catastrophic 95%. David Salisbury from Chatham House also warned that the slashed funding

"could threaten the eradication initiative."

In 2019, the former International Development Secretary Alok Sharma rightly said:

"If we were to pull back on immunisations, we could see 200,000 new cases each year in a decade. This would not only be a tragedy for the children affected and their families, but also for the world. We cannot let this happen."

So, why are we now letting it happen? In Questions earlier this week, the noble Lord, Lord Collins, asked for details of how much ODA will be dedicated to the polio eradication programme, the Gavi vaccine alliance, the Global Fund and nutrition programmes. I hope he will be answered today. The race to buy up vaccines has merely underlined gross inequalities worthy of Lazarus and Dives.

My noble friend Lord Crisp, a former Permanent Secretary at the Department of Health, will remind us that many British clinicians voluntarily provide support to their colleagues in low and middle-income countries such as Myanmar. It is essential that the FCDO holds to its commitment to support this vital work at this awful time in a country where, following the coup, medical staff are themselves targets for assassination. In addition, we should significantly improve arrangements for diaspora to send remittances from the UK to developing countries.

Voluntary giving is personified by our flagship Voluntary Service Overseas, which, thanks in part to the efforts of my noble friend Lady Coussins and an intervention by the Select Committee, will receive a welcome extension of the V4D grant. However, it will still sustain a 45% cut in funding with, as it states, over 4 million people losing access to VSO services and with no ability to plan for the future of international youth volunteering and its International Citizen Service.

There are other extraordinary UK flagships, such as the increasingly emasculated British Council and the courageous BBC World Service, whose journalists are persecuted and vilified in Iran and driven out of China for exposing genocide against the Uighurs and breaking information blockades in North Korea and Myanmar. BBC World and the British Council, like VSO and our championing of the rule of law—which the noble Baroness, Lady Kennedy of The Shaws, will doubtless speak about—combine our values with global reach. They are fine examples of soft power, or what Joseph Nye dubbed "smart power".

The review describes the UK's soft power as

"rooted in who we are as a country"

and

"central to our international identity as an open, trustworthy and innovative country".

The review also states:

"It helps to build positive perceptions of the UK"

and to

"create strong people-to-people links".

Yes, but how will we be perceived if we break commitments and carefully nurtured relationships, are seen to disregard our own laws and foolishly allow other actors, such as the CCP, to replace a country committed to the rule of law, human rights and democracy with its authoritarian economic coercion and its use of debt bondage, suborning countries and multilateral institutions through its $770 billion belt and road projects?

While I welcome the Government's decision finally to cut aid to the regime of the Chinese Communist Party by 95%, I would be grateful if the Minister could respond to today's report from the Independent Commission for Aid Impact. It says that, last year, opaque arrangements and pockets of public money in multiple departments, described as a "complex mosaic", led to a record £68.4 million being used as aid to China, up from £44.7 million in 2015. Why have we been doing this, not least while the CCP is identified in the review as a "systemic" threat to the UK and its interests?

To conclude, yesterday, the Foreign Secretary emphasised the importance of transparency, an integrated approach and value for money. Transparency will be assisted by a commitment today from the Minister to publish all planned spending of UK aid in 2021-22 and to resist the usual default that we will learn more in due course. Programmes cannot be planned and implemented on that haphazard and erratic basis.

The integrated review insists that we are

"one of the world's leading development actors, committed to the global fight against poverty, to achieving the SDGs by 2030 and to maintaining the highest standards of evidence and transparency for all our investments."

It promises a "new international development strategy" that, from next year, will realign UK aid with what it calls a strategic framework, about which we will hope to hear more. To achieve all that, it will be crucial to restore the commitment to 0.7%. We should do this because it is in our national interest but also because it is morally the right thing to do. Generous altruism and self-interest are two sides of one coin. All five of the UK's living former Prime Ministers have called on the Government to think again. I hope that this debate, with such an impressive array of formidable speakers, will reinforce that call. I beg to move.

2.48 pm

Lord McConnell of Glenscorrodale (Lab): I begin by thanking the noble Lord, Lord Alton, for securing this debate and leading it in such an outstanding and comprehensive manner. He deserves, and we deserve, answers to the questions that we have been posing and will pose again this afternoon.

This is a political decision to reduce funds that were already going to be reduced. It will damage our country's interests, threaten our security and cost lives around the globe. It shames our country at a time when other countries nearby are stepping up to the mark and going in the opposite direction.

We know that conflict and violence sets back development; we know that development is essential for conflict prevention and conflict resolution, and we know that there is already tension in countries around the world as a result of vaccine inequity and of the other pressures resulting from the pandemic over the past 12 months. Surely the Government must know that a sudden withdrawal of funding from vital, life-saving projects and development work around the world will increase tension, division and hopelessness and create further instability.

Will the Minister tell us whether the Government evaluated the impact on conflict and violence of the cuts that have been agreed and are about to be implemented, even this early in the financial year? Will the Government commit to continuing their funding for the UN Peacebuilding Fund and the many other peacebuilding projects around the world that are trying to guarantee stability, protect our interests, save lives and prevent violent conflict in some of the most difficult and dangerous parts of our world today?

2.50 pm

Baroness Northover (LD): My Lords, I too thank the noble Lord, Lord Alton, for securing this vital debate and enabling us to demonstrate how wide and deep the concern is about this matter. I am very proud of the agreement that we made with our partners in the coalition Government to meet the UN target of 0.7% for aid. It was both right and in our self-interest, as the noble Lord, Lord Alton, said. My colleagues Michael Moore in the Commons and my noble friend Lord Purvis took through the Private Member's Bill to enshrine that commitment into law with cross-party support. I had the privilege of being a DfID Minister, and saw what a difference our aid programme made.

Many speaking in this debate have played a stellar role in that achievement. We were recognised as a development superpower and had influence beyond our own programmes. We shaped the EU's programme, which was the largest in the world. We played a central role in multilateral organisations and the huge and vital extension of family planning provision was carried out with them, and with new players, including Bill and Melinda Gates. The key public health measure that transformed British lives in the 19th century—the provision of clean water and sanitation—was carried forward with companies such as Unilever. This has now been drastically cut.

ODA went beyond DfID—for example, to the City of London enforcement agencies to counter corruption, and to our universities for work on R&D. The Jenner Institute's work on the Ebola vaccine translated into that on the Covid vaccine, to our benefit. The right hand clearly did not know what the left hand was doing when the Government decided to cut aid. That cut fundamentally undermines the integrated review. How can we be a science and tech superpower while we cut the research budget? How can we build on our soft power while, for example, forcing the closure of British Council offices? If anything shows that we are all interlinked, it is the pandemic and climate change.

[Baroness Northover]
We are destroying our reputation in this area and as a trusted partner. I hope that the Minister will not use the phrase "restoring this when possible." It should not have happened, and it needs to be reversed now.

2.53 pm

Baroness Sugg (Con): My Lords, the decision to break the commitment to spend 0.7% of our GNI on international development undermines the objectives outlined in the integrated review. This year the UK is hosting three crucial summits. We have high ambitions to use the G7 to lead the world's efforts to build back better from Covid-19, yet we are the only G7 country that is not increasing development spend in the midst of a global pandemic. We are using the GPE summit to galvanise investment into education, yet we are cutting our investment into education by 25% from last year—40% on average in the last four years. For COP 26, surely the most crucial summit of our time, while we are keeping our ICF commitment, we are cutting climate and other bilateral programmes in the very countries that we are trying to encourage to come forward with ambitious plans on climate.

We are now starting to see the real-world consequences of these cuts. The noble Lord, Lord Alton, highlighted many of these in his excellent opening speech. To them I would add the consequences to family planning and voluntary contraception. These might be cut by up to 70% to 80%, taking away the ability of women to have control over if and when to have children and how many children to have. The scales of these cuts and the impacts they will have are difficult to comprehend. One gender expert to whom I spoke yesterday described these cuts as acts of violence against the world's poorest women and girls.

Now that we have seen this reality, I hope the Government will set out a clear timetable for when they will return to the manifesto commitment to spend 0.7%, which, let us not forget, is enshrined in law.

I have three questions for my noble friend the Minister. Last week's WMS did not give the information that Parliament needs to carry out its role of scrutinising the Executive. It was in no way an improvement on what we have had before; DfID routinely published geographic and thematic budgets at least one year in advance, in detail. We are now into the new financial year. These budgets obviously exist and they need to be published. Will my noble friend commit to publishing full details of country and thematic breakdowns by the end of May? Secondly, organisations still have not received funding confirmation. Can my noble friend provide a clear deadline for when these final decisions will be communicated? Finally, can he tell me when the Government will introduce legislation to ensure that they are acting lawfully?

2.55 pm

The Lord Bishop of Rochester: My Lords, UK aid is important because it works. This is not money that is wasted; it is well targeted, well managed and, some of our history notwithstanding, not exploitative. Yes, there have been well-publicised scandals in some aid organisations and some aid may be misapplied, but the overall picture is of effective partnerships and fruitful work. Because UK aid works, its reduction will have tangible effects.

My diocese has close links with the dioceses of Mpwapwa and Kondoa in central Tanzania; I should have been there next week. We work with our colleagues on various small-scale development projects. When there, I also see the importance of other projects funded in whole or part with UK government funding. Over the years, British aid has been of great significance in Tanzania.

But—and this is where this links with the other strands and objectives of the review—others are very clearly seeking to increase their involvement and hence their influence. For most of the years of my visiting, a building site has run right through the diocese of Kondoa: a key stretch of the pan-African highway from the Cape to Cairo. While the workers have been local, the engineering oversight and management has been very largely Chinese. My point, I hope, is clear: when we withdraw, others are poised to come in. We take care that our involvement is well motivated and for the good; that of others may be less so. The Chinese ambassador to Tanzania has been very clear about his country's aspiration to expand its involvement there. Reference has already been made to some of those initiatives.

I dare to hope that Her Majesty's Government might increasingly realise that reducing aid will turn out to be a false economy. What is lost could far outweigh the relatively small financial gain. I therefore urge Her Majesty's Government to take the earliest opportunity to reinstate the 0.7% commitment. I note that the noble Baroness the Leader of our House restated this at various points a few weeks ago in another debate. I hope that it will be done very soon.

2.57 pm

Lord Hastings of Scarisbrick (CB): My Lords, this weekend, the Defence Secretary, in anticipation of the first overseas tour by the Royal Navy's new flagship carrier and six other Navy ships to tilt at the Indo-China region, stated:

"When our Carrier Strike Group sets sail"

next month,

"it will be flying the flag for Global Britain—projecting our influence, signalling our power, engaging with our friends and reaffirming our commitment to addressing the security challenges of today and tomorrow."

No, Mr Wallace: this is the very week that, after 20 years of a wasted war in Afghanistan, US and UK troops start their weary journey home—trillions spent and no victory. It was Hillary Clinton, when US Secretary of State, who, in despair at ongoing defence deployment, stated that if we had wanted to win the war with the Taliban and liberate Afghanistan, we would have been building schools for girls and boys, and empowering excellent global education from the 1970s onwards.

Truly, to project power and soft power, influence is not in bombs and ships. As Nelson Mandela once said:

"Education is the single most powerful weapon … to change the world."

That is why it is scandalous to cut education aid by 40% over four years. As one of the many ambassadors here for the Global Partnership for Education, I say:

if we want security, we need to invest in minds, not mines in the ground; in subjects, not submarines; and in war history, not war machines. Learning is the vaccine to the pandemic of ignorance and injustice that our world suffers.

2.59 pm

Baroness Jay of Paddington (Lab) [V]: My Lords, I am sure the Minister has registered that this well-attended debate secured by the noble Lord, Lord Alton, is the third time in the past week that your Lordships have raised deep concerns about the cuts to ODA. This is a profoundly serious matter of policy and reputation, and I am very proud that the House is pursuing it so vigorously.

This is also my first opportunity to pay tribute to my friend Lord Judd, whose clear and firm voice on development we miss today. He was always my important mentor when I was chair of the Overseas Development Institute and he was enthusiastically involved in all the NGOs and aid charities that exist. This is a crucial sector in development and I particularly mention the work of VSO, of which Frank Judd was the onetime director.

VSO is now 50 years old and has continuously delivered vital programmes to the world's poorest people. It has played a constant, central role in making the UK what the integrated review calls "a soft power superpower". But on 23 April, VSO was told that its funding is to be cut by 45% and will be given for only one year. As the noble Lord, Lord Alton, mentioned, it is now reckoned that 4 million people will lose its services. I have been a short-term VSO volunteer in Africa three times and can vouch wholeheartedly for those services. They chime precisely with the Government's priorities on girls' education and health security, especially in the pandemic.

To be successful, these services must have consistent and predictable funding—the "thoughtful investment" that the integrated review has called for. Short-term erratic growth will undermine decades of careful work on projects which cannot be revived instantly if ODA levels are sometimes restored. I fear that this policy will prove as practically short-sighted as it is politically indefensible.

3.01 pm

Lord Chidgey (LD) [V]: My Lords, I too express my thanks to the noble Lord, Lord Alton, for bringing this debate and to Bond and the other NGOs, which have provided such excellent briefings on the issues. The £5 billion saved from this savage cut to our aid budget will have a negligible impact on the UK economy. It will, however, have a huge impact on those dependent on this life-saving support. Many will die.

The pandemic has caused a drop in GNI, and a resulting drop in the aid budget, but also a dramatic increase in need. Over 100 million more people were pushed into extreme poverty in 2020. This is a global economic and health crisis. The virus is no respecter of international borders and while one country is at risk, all countries are. Cutting the aid budget undermines the UK's ability to tackle this international crisis and strengthen global health systems, reducing the risks of further pandemics.

Last year, the FCDO halved its human rights budget to £28 million. Some human rights projects will be ended prematurely. Such stringent cuts to human rights funding can only undermine the Government's aim to be a global "force for good". The ODA allocation for 2020-21 for human rights, democracy and the rules-based international system programme is £8.5 million—a huge cut from the £19.5 million of the previous year. The funding for a newly formed open societies and human rights directorate is set to fall by up to 80%. This directorate is primarily focused on promoting human rights, anti-corruption efforts and media freedom in some of the world's poorest countries.

At the London CHOGM, which was in many ways a great success, the Prime Minister embraced the UK's commitment that every girl in the Commonwealth would receive an education: "No girl will be left behind". Under the cuts, the budget has been slashed.

The Deputy Chairman of Committees (Baroness Healy of Primrose Hill) (Lab): The noble Lord, Lord Herbert of South Downs, has withdrawn so I call the next speaker, the noble Baroness, Lady Hayman.

3.03 pm

Baroness Hayman (CB) [V]: My Lords, I declare the interests that I have set out in the register. The devastating human costs of the Government's decision to renege on their manifesto commitment to maintain ODA spending at 0.7% of GDP have been clearly articulated throughout the week in your Lordships' House, and already today in this debate. But my noble friend Lord Alton asks us to examine those cuts in relation to the Government's strategic review and their stated aims. I shall focus on two of those: the aim to be a science superpower and the aim to be "a soft power superpower".

Covid and global health are the crises of our times. Climate change is the crisis of our age. Yet these cuts threaten our ability to influence either. In particular, the cuts to UKRI from ODA funds are undermining our efforts in both areas. UK research organisations are seeing cuts in the exact areas where spending in previous years built the capacity in Oxford and elsewhere to produce Covid vaccines at speed. The Royal Society said:

> "These are programmes, and relationships, that have taken years to build, and such deep cuts send a message that the UK is a not a reliable partner in long-term science advancement".

The way in which the cuts are focused on bilateral funding means that the sense of our not being a reliable partner will be felt in many countries, including those worst affected by climate change and those we most need to influence to join our efforts to combat climate change in the year in which we host both the G7 and COP 26. As one commentator put it:

> "This decision is the single worst self-inflicted injury in this kind of diplomacy … for a very long time."

3.06 pm

Lord Liddle (Lab): My Lords, I join my noble friend Lady Jay in paying tribute to Frank Judd, whose voice we miss today. Not only was he the director of VSO, he was also chief executive of Oxfam, to which he remained committed throughout his life. My wife was chair of Oxfam in his last few difficult years; he was a great support to her.

[Lord Liddle]

No one can compete with the eloquence of the introduction by the noble Lord, Lord Alton, in two minutes—he set out the case perfectly—but I want to look at what my noble friend Lord McConnell said: why has this political decision been taken? It seems totally inconsistent with the concept of global Britain. It seems quite unjustified in the present circumstances, as the noble Baronesses, Lady Sugg and Lady Hayman, outlined. Why has the Conservative Party—this question must be directed at the Conservative Party—which so bravely supported increases in overseas aid in the worst decade of austerity we have seen since the Second World War, now ratted on that commitment? I would like the noble Lord, Lord Goldsmith, to give us an explanation and tell us how much money has been spent on focus groups and opinion polls to test this decision. I suspect that this Government want to pander to people's worst instincts when our business in politics is to try to appeal to their better ones.

3.08 pm

Baroness Randerson (LD) [V]: My Lords, I declare an interest as the chancellor of Cardiff University.

It is obviously morally wrong to turn our backs on existing commitments to the poorest parts of the world at what is a desperate time for many countries. It is also a spectacular own goal for the UK. Following Brexit, the Government are searching for friends across the world. These cuts are alienating emerging economies, including many Commonwealth countries. Where we are withdrawing, China is already fast stepping in to fill the gap. In South Africa, Ghana, Nigeria, Uganda, Tanzania and Kenya—Commonwealth countries to which we owe a special obligation—China is offering infrastructure funds, health support and R&D funding for universities. The impact of the sudden and significant withdrawal of aid funding, in many cases in the middle of projects with contractual obligations, will do significant harm to our international reputation.

The ramifications of these cuts were not thought through. The level of cuts to some sectors, including the successful Global Challenges Research Fund, has been disproportionate. The GCRF supports 400 partnerships in 85 countries which are to be cut forthwith by about 50%—£120 million. Successful ongoing projects are being abandoned mid-term. Research staff in UK universities will lose their funding. That is an own goal from a Government who say they want to increase research funding, but of even greater harm is the sudden loss of funding and jobs affecting universities in Africa and Asia. I urge the Minister to commit to a review of this damaging policy.

3.10 pm

Baroness Hodgson of Abinger (Con): My Lords, I, too, thank the noble Lord, Lord Alton, for securing this debate and introducing it so ably. I draw attention to my registered interests in this regard. The pandemic has had devastating effects everywhere, including on economies, with millions more people being pushed into poverty globally and environmental degradation accelerating as a consequence of people just seeking to survive. Fundamentally, the integrated review is about keeping Britain safe and bringing peace, yet it does not recognise that cutting aid on conflict prevention is surely a false economy, especially now when there are more than 75 million displaced people in the world, who are fertile recruiting grounds for terrorist groups, and when poverty is too often the underlying cause of conflict.

Tragically, women are disproportionately affected by the pandemic. While I welcome the development focus on girls' education, it should be recognised that it cannot succeed without development input on women's health, contraception, security, addressing violence against women, access to justice and women's empowerment. Does the Minister agree that gender must remain integral to all FCDO policy decisions? UK work around the world on women, peace and security and on preventing sexual violence in conflict are two initiatives where the UK has led the world. They were always going to be a marathon, not a sprint. I hope that the Minister can reassure me that they will remain front and centre of security and conflict work. We live in a globally interconnected world. War zones are poor zones. The Institute of Economics and Peace estimates that $1 of peace-building would lead to a $16 reduction in the cost of armed conflict. The pandemic has made us make some harsh choices, but surely now is not the time to abandon our commitment to the world's poorest. I fear that our aid cuts will damage the vision of a global Britain being a force for good as set out in the integrated review.

3.13 pm

The Lord Bishop of Southwark: My Lords, like other speakers, I share the ambition of the noble Lord, Lord Alton, to see these cuts reversed. I want to tease out from Her Majesty's Government what is the scope of their ambition. In his foreword to the review, the Prime Minister writes of our deepening engagement in trade, security and mutual values in the Indo-Pacific. The noble Lord, Lord Hastings of Scarisbrick, spoke of the UK carrier fleet, including HMS "Queen Elizabeth", which will be heading to the Indo-Pacific next month. I note that it will include Dutch and US vessels, emphasising precisely the sort of partnerships that the Government espouse. However, as a frequent visitor to Zimbabwe and the Middle East, I would like to hear from the Minister, in the light of the unprecedented cuts in aid, how Britain will make a positive impact in these areas as well increasing our economic and security presence east of Suez. How do we project ourselves with greater effect around the globe if we cut aid, have a historically numerically small military force, have a reduced diplomatic presence, and operate one of the most expensive immigration and nationality systems in the world?

As other speakers have mentioned, the stated commitment in the paper to Africa needs to recognise that a good deal of help remains necessary in, for instance, a country such as Zimbabwe, where food programmes are essential, as is the Government's priority around the education of girls, although even here cuts are projected. I shall make one additional point: the review speaks of the BBC as a trusted broadcaster, yet while China and Russia invest in expanding overseas broadcasting we ask the BBC to shoulder costs formerly

borne by the Government. I hope that in his summing up the Minister will reflect on whether the resources are available to meet the scope of the Government's ambition, not least in the tilt to the Indo-Pacific.

The Deputy Chairman of Committees (Baroness Healy of Primrose Hill) (Lab): I call the next speaker, the noble Baroness, Lady Chalker of Wallasey. No? I am afraid that I will have to move on and call the noble Baroness, Lady Coussins.

3.15 pm

Baroness Coussins (CB): My Lords, I want to ask about two important organisations. The first is VSO. The Foreign Secretary claimed that he would protect VSO but, as we have heard, the one-year extension of its V4D grant amounts to a 45% cut. Short-term funding is not good enough and VSO is having to pull programmes in dozens of countries, including in areas which the Government claim are their top priorities, such as gender-based violence. Will the Minister explain how this is compatible with the integrated review's statements on soft power, and commit to a further review of VSO's grant?

The second organisation is Translators without Borders, or TWB, which has received funding through the H2H Network to provide language services in refugee camps, disaster zones and conflict areas. It has helped Rohingya refugees in Bangladesh with accurate information about Covid and played a vital role in tackling the Ebola crisis in Sierra Leone, using local languages rather than the official but relatively useless French and English. H2H funding supported its rapid deployment to support people in Tigray. However, like VSO, TWB faces operational wipe-out if its funding via H2H cannot be restored. It says that the UK Government were the first major funder to recognise the fundamental impact of language on the reach and impact of humanitarian action. Is the Minister not proud to hear this, and will he not be ashamed if this work cannot continue with our help?

3.17 pm

Baroness Chalker of Wallasey (Con) [V]: My apologies for not being able to find the appropriate button to press earlier.

Perhaps I may begin by saying that not only will members of his own party greatly miss Frank Judd—Lord Judd—but so will those of us who debated with him over many years in another place.

I thank the noble Lord, Lord Alton, for his clear demonstration of how deeply misguided this proposal to reduce UK development aid is, even if only for one or two years. That is because most of the programmes that we run in overseas countries are for five years. If you are going to do the sort of research which is absolutely critical, particularly for health improvement, you need four-year or five-year programmes; you cannot switch it on and switch it off. As vice-president of WaterAid and a former chair of the London School of Hygiene & Tropical Medicine for eight years, I see how we have changed the situation in many countries by consistent research programmes, particularly in the past four years. We have benefited millions of people in the developing world.

When people are healthy, they listen to positive arguments for change. We would be committing a very serious mistake if we were to continue with the suggested cuts in development aid.

The cuts to the Global Challenges Research Fund will disrupt vital global health research. They would damage not just the research itself but the UK's research base, and the capacity of research partners in developing countries. Given the partnerships that we have embedded already in awards, it is likely that at least 50% of the consequences of this government decision will be borne by low and middle-income country researchers and institutions. That would have dire consequences for the livelihoods of the researchers and the field staff. I beg the Government to think again.

The Deputy Chairman of Committees (Baroness Healy of Primrose Hill) (Lab): The noble Baroness, Lady Kingsmill, has withdrawn, so I call the next speaker, the noble Baroness, Lady Helic.

3.20 pm

Baroness Helic (Con) [V]: My Lords, at this point in the debate the harm that these cuts will do, and are already doing, is well established. In many critical areas, this comes on top of existing underfunding and neglect. Preventing sexual violence in conflict is one such area and it is as urgent today as ever. Horrific accounts of rape, sexual assault and torture have been coming out of the conflict in Tigray. Over the past few years, we have heard similar reports from the DRC, Sudan and Myanmar. These are situations that the Preventing Sexual Violence in Conflict Initiative was established to help address, yet the Government are not using the tools they have.

Worse than that, they are starving them. Funding for PSVI has fallen from more than £15 million in 2014 to about £2 million today. Staff numbers have been cut from a peak of 34 to four and have, at times, been even lower. That is before we know the impact, as yet unannounced and unqualified, of these new aid reductions.

We should be leading the world in preventing sexual violence. With President Biden's election and the upcoming G7, we had a tremendous opportunity to breathe new life into efforts to end impunity. We have not taken it. Yet there is still time. The integrated review lists efforts to prevent sexual violence in conflict as a priority action. I welcome that but there is a clue in the word "action". Words in a review are not enough. We need to fund existing efforts and make use of existing tools. We need to put sexual violence back on the agenda, including with G7 leaders. We need to think about how to keep driving progress forward, including through new approaches and mechanisms. These aid cuts will not help but, if the Government are determined, they can make real progress. I hope they will.

3.22 pm

Lord Crisp (CB) [V]: My Lords, I shall speak about a specific that illustrates the bigger problem. On Monday I chaired a meeting of clinicians in Myanmar and the UK, attended by the Health Minister of the national unity Government. British clinicians are providing vital support to their counterparts in Myanmar. The situation

[Lord Crisp]
is desperate, with many doctors and nurses unable to access their hospitals and clinics and having to treat people in homes and the community without specialist support, equipment and knowledge. Some have been targeted for assassination. Services have deteriorated and Covid-19 is spreading fast.

British clinicians are actively supporting clinicians in Myanmar by establishing websites with treatment protocols in Burmese, providing training, being available for advice and consultation at short notice—setting up rotas to do so—and helping to record the atrocities. In March the Government committed to support this activity. Can the Minister confirm that the Government will indeed provide financial and other support for this vital work?

More generally, this is just one example of international health partnerships. Many hundreds of volunteers and doctors in training work overseas every year. I declare an interest as patron of THET, which organises such schemes. They bring benefits to the NHS as well as to other countries. Every one of those doctors, nurses and others is a fine ambassador for global Britain—through their actions, not their words. During Covid they have provided vital expertise in infection, prevention and control, treatment of Covid patients and the use of personal protective equipment. Do the Government really want to stop this essential work and crush the enthusiasm and passion of these clinicians by cutting these schemes? Are they prepared to meet THET, royal colleges and others to consider how to provide continuing support for these vital partnerships?

3.24 pm

Lord Khan of Burnley (Lab): My Lords, yesterday, I had the great pleasure of attending the Lord Speaker's lecture. In his concluding remarks, the noble and learned Lord, Lord Clarke of Nottingham, described it as shocking for the Government not to put these UK development aid cuts to a vote. The reduction in direct aid spending on water and sanitation in the world's poorest countries by 80% of spend is catastrophic. Our UK public views water, sanitation and hygiene as a priority area for UK aid because hand hygiene is widely recognised as a critical intervention to counter the spread of Covid-19.

It is beyond belief that this should happen just months ahead of the G7 and COP 26 climate summits, at which the UK wants to show global leadership. The cuts mean that a staggering 10 million people stand to lose out on gaining access to clean water, sanitation and hygiene facilities this year, in the midst of a pandemic, according to WaterAid UK, the leading British charity in this area.

Providing clean drinking water to the world's poorest has proved to be one of the most cost-effective ways of improving health and productivity across the developing world in recent decades. Does the Minister agree with Pauline Latham, MP for Mid Derbyshire, who warned Ministers not to balance the books

"on the backs of the poor"?—[*Official Report*, Commons, 16/3/21; col. 176.]

There is never a good time to cut aid for life-saving water and sanitation, but the middle of the worst pandemic for 100 years must be one of the worst. As the only G7 nation to cut aid, we are retreating from our moral duty by doing this, recklessly putting us out of step with our closest allies and making a joke of the fact that we are an internationalist and outward-looking country.

The Minister and I share a passion for visiting schools and trying to inspire the next generation. How can we look these young children in the eye when they ask, "Why are you cutting the global education budget, which affects our brothers and sisters across the world?" The noble Baroness, Lady Chalker of Wallasey, referred to pressing appropriate buttons: with this decision, the Government are pressing all the wrong ones.

3.26 pm

Lord Lancaster of Kimbolton (Con): My Lords, I welcome the opportunity to contribute to this timely and important debate and to follow the thoughtful contribution of the noble Lord, Lord Khan. I am committed to delivering the 0.7% spending target but recognise that not only are these unique times but there is an imperative to maintain public consent for our aid spending. It is because of this latter point and with the firm proviso that the cut is temporary that, on balance, I support the Government's current approach.

Having worked at DfID during my time in the Commons, I was privileged to see the impact that the world-class delivery of UK aid had around the globe. In the context of this debate and the importance of the integrated review, I can only reinforce comments from other noble Lords in saying that bilateral aid is at its most effective for both nations when an integrated departmental approach is taken.

One such example that I experienced first-hand during my military service in Afghanistan was the so-called "comprehensive approach" delivered by the provincial reconstruction teams in Helmand and other provinces. Here, security, diplomacy and development were delivered together, and, rather like three strands of a rope, the sum was far stronger and delivered far more than the component parts. I am sorry that the noble Lord, Lord Hastings, considers my service in Afghanistan, and that of other members of the Armed Forces, to be wasted.

Another such example of a successful "one-HMG approach" in action is Nepal, and I declare my interest as colonel commandant of the Brigade of Gurkhas. For over 40 years, the Gurkha Welfare Trust has, on behalf of the UK Government, delivered a rural water and sanitation project in some of the most remote parts of the country. It has been a key contributor to the continued strength of a bilateral relationship that has spanned over 200 years, since the first Gurkhas were recruited to serve the Crown in 1815.

While interest in joining the Brigade of Gurkhas remains as strong as ever, with over 12,000 applicants for just 300 places, this vital and long-standing programme is just one way that the benefits of Gurkha service are felt by all members of the wider community. I simply seek reassurance from my noble friend that this valuable project will continue to be supported, albeit likely at a reduced rate.

3.28 pm

Lord German (LD) [V]: I refer to my interests in the register. Today's news that the Government's global health priority is virtually excluding water, sanitation and hygiene projects shows the impact of the cuts to international aid. Good public health is an essential element of community resilience to disease and infection—just look at the health impact on schools with no running water, where toilet and eating activity is undertaken without any handwashing.

The sad reality is that we now have a smaller pot of money for global development, and added to that is the other reality that big international long-term commitments will take the lion's share of this smaller pot. This means that smaller charities in the UK will be squeezed out of delivering much-valued projects that are closer to the communities they serve. These are the smaller charities that deliver better value for money than large organisations.

The latest round of Small Charities Challenge Fund and community partnership grant applications has been paused indefinitely. Without confirmation that successful grant applications would be honoured, many charities face having to make immediate decisions on staffing and resources, including redundancies.

These are projects where small charities have invested hundreds of hours in the development and preparation of projects approved by the Government but now in limbo. Pulling the plug on approved projects is costly and damaging to small charities; it is also damaging to the communities they serve in the poorest parts of the world. They now have no hope of recovering the nugatory work they have put into developing projects that the Government determined were valuable. This has devastatingly dashed the hopes of the people who were to be the beneficiaries of these projects.

What reassurance can the Minister give on the future of the Small Charities Challenge Fund and the Community Partnership grant scheme, including those projects that have received approval but no payments as yet?

3.30 pm

Lord Hannay of Chiswick (CB) [V]: My Lords, we owe a debt of gratitude to the noble Lord, Lord Alton, for providing the occasion for this overdue and necessary debate about the swingeing cuts Britain is making to its aid budget. It is shameful that we are not holding this debate in government time and on the Floor of the House, although I understand why the Government are in no hurry to defend the indefensible. If these cuts are defensible, is it not a trifle odd that we have now heard from 20 speakers and only one has attempted to defend the Government's decision?

I will make one critical point to be clear at the outset. What is at issue is not whether to cut Britain's aid budget at all during the economic contraction caused by the pandemic. The 0.7% commitment, which is in our domestic law, contains a self-correcting mechanism. If our economy shrinks, as it did last year, our 0.7% commitment does too, since it is linked to our GNI. Last year, that automatically cut our aid budget by £2.9 billion or thereabouts. It is the second massive, additional cut, made by switching from 0.7% to 0.5%, that is at issue.

It is too easy to think of these figures as abstract. They are not. These are cuts in food for starving people, cuts in girls' education, cuts in support for primary healthcare provision and cuts in scientific research programmes, which also bring benefit to our own universities. When will the Government come clean about the detail of the consequences and try to defend them?

The noble Lord, Lord Alton, posed the question of whether the cuts will damage our worldwide influence—that is, our soft power. Frankly, anyone who denies that effect is inviting ridicule. Of course they will. We will lose bilateral influence around the world. It will also show up in loss of support as we compete for multilateral influence in the great aid-giving agencies and in elections at the UN.

I note in their integrated review the Government's

"commitment to spend 0.7% of gross national income on development when the fiscal situation allows."

However, that formula is pretty meaningless. Could not the Minister mark this debate by giving one simple undertaking: that Britain will return to full 0.7% compliance in the year following our economy's return to growth?

3.33 pm

Baroness Goudie (Lab) [V]: My Lords, I dedicate my speech to the late Lord Judd and agree with what my colleagues have said about him. I knew him for many years and he gave us great leadership on these issues.

I am also upset by the way the Government have handled these cuts at a time when countries around the world need us and Britain is pretending to be a world leader. By making these cuts, we can no longer see ourselves as a leader, especially in soft power.

I want to continue the discussion started by the noble Baroness, Lady Helic, on PSVI. I want a commitment from the Minister that we will continue to work on these issues and be supportive of women at the peace table in Afghanistan, Yemen, Syria, the DRC and other countries. We made a commitment to supporting women at the peace table, as well as to providing training for the military to ensure that women and boys are not raped. Along with America, we were one of the foremost countries to sign the commitment to PSVI. Why are we going against that now?

I ask the Minister to promote our continuing with our funding for this scheme, as well as with our funding for women and girls. How can we see ourselves leading the G7 and the G20 while asking other donors to pay for something that we have committed ourselves to over the next five years? I ask the Minister to reinstate these figures now because there are other cuts that the Government could make.

3.35 pm

Lord Cashman (Non-Afl) [V]: My Lords, I draw attention to my interests in the register, particularly my role on the LGBT APPG. I do not support these cuts to ODA, which will devastate the lives of those most at risk and most in need. It will put in jeopardy years of work on democracy building, stability and

[Lord Cashman]
security, and will ultimately see our borders under further strain as migratory flows increase when people flee famine, deprivation, conflict and repression.

As the noble Lord, Lord Hannay, stated, there are currently drastic cuts to the ODA budget. We contribute on the basis of a percentage of our gross national income; therefore, as income has reduced, so too have our financial commitments. A further cut to 0.5% will wreak humanitarian damage of which our country should be deeply ashamed. I do not believe that these cuts represent the decent majority of people in this country. I urge the Government to abandon them and thereby the humanitarian carnage that would follow them.

Women and minorities already face discrimination and repression; they are being abandoned. I make no special pleadings, but the UK Alliance for Global Equality, a coalition of 16 UK-based civil society organisations working together to promote and protect LGBT+ rights around the world, is increasingly concerned about the precarious status of funding for global LGBT+ rights, as the Government have not made clear any funding commitments for this area for the financial year 2021-22.

Therefore, I ask the Minister: will the Government provide the same level of funding for basic essential LGBT+ human rights work in 2021-22 as in the previous financial year, make a further funding commitment for 2021-22 at the July ERC conference and allocate this through the FCDO and the LGBT inclusive societies department?

3.37 pm

Lord Sarfraz (Con): My Lords, I am a big fan of the noble Lord, Lord Alton, and agree with the broad consensus across your Lordships' House that we must return to the 0.7% commitment as soon as we can. However, I am also happy to become the second speaker to sympathise with the Government's difficult decision.

When thinking about our development footprint, one entity sometimes does not get the love it deserves. That is the CDC, our development finance institution, which is flying our flag across the world. Its portfolio supports 875,000 jobs across Africa and south Asia. Its investing companies pay over $3 billion of tax to national Governments and invest where nobody else wants to. While it is very sensible for the CDC to operate independently of government, it is 100% owned by the FCDO and will always be perceived as a component of the one HMG overseas strategy outlined in the integrated review.

We need to take more ownership of and credit for the CDC's efforts globally. Whether pioneering the 3D printing of entire schools in Malawi or guaranteeing supply of syringes in Ghana, it is not just the CDC at work—it is the UK at work. We are very lucky that the CDC has extremely capable leadership, which has reshaped the investment strategy over the years and delivered an impressive annual portfolio return of 7.4% since 2013.

There is always more to do, however. If we are to become the global science and technology superpower that we aim to be, the CDC will need to be encouraged to work directly with the most innovative businesses in emerging markets—even if they are early-stage. To do this, we need to support the CDC and increase its appetite for risk-taking. This is in line with item 1.1 in the strategic framework, which states:

"We will accept more risk in our public investments, supporting the most creative, innovative and radical ideas for future development."

The CDC could also be encouraged to partner more with innovative businesses here in the UK, to help them lend in global markets.

I would be most grateful if my noble friend the Minister could share what the future of the CDC might look like in light of the review. Does he agree with my enthusiasm for the role that the CDC can play in its implementation?

3.39 pm

Viscount Waverley (CB): My Lords, fiscal criteria and for what purpose we apportion two key elements of aid assistance go to the core of my remarks. Humanitarian ghastliness in Yemen, Syria or Iraq is apart from strategies for countries in poverty. This enforced reduction could be an opportunity.

Making trade work for everyone must become our mantra. As a bonus for doing so, emigration would be stopped in its tracks. The UK must lead by example and move the dial on the world stage.

What we never debate is what we are prepared to give up. Governments should consider what is needed and what is not working. Throwing cash at the problem for our new-look world is not the solution.

Resolving the major contributory factor to trade reform by failing to implement the WTO Doha round offers a lifetime opportunity. Reductions in government spending on subsidies and agribusiness, which were held hostage by the United States and the European Union to the detriment of developing economies, ended the Doha round. That was regrettable.

First, we must prioritise the issues that erode developing countries' tax bases as a means of improving the overall effectiveness of international development and tax co-operation. International tax rules, especially manipulation by multinational companies to avoid paying their appropriate level share of taxes to the right quarter, should be prioritised, with a taxed-at-source mechanism.

Secondly, Governments should support broader economic goals with market reforms, the promotion of private sector investment and industrialisation by revamping incentives and development agreements for a broad range of countries. Major benefits would come from freeing economies with a package of zero-tariff regimes that would create wealth in developing and impoverished nations, and much-needed employment. This would provide a range of new participants to the supply-chain cycle, providing new sources of supply from the developing world.

3.41 pm

Lord Lipsey (Lab): My Lords, I cannot claim a fraction of the expertise on aid that noble Lords have displayed this afternoon. My knowledge, such as it is, was gleaned during the Economic Affairs Committee's

inquiry into overseas aid in 2012, and my subsequent unavailing efforts to promote a Bill to make the 0.7% of GDP target for aid apply over five years rather than for every single year within it. Incidentally, had that Bill gone through, the Government's arguably illegal effort to cut aid this year would have been possible without reducing aid over a five-year period by a single penny.

I am not here to cry over spilt milk. I will make one point and one point only. The debate on aid is overpolarised. On the one hand, there is an anti-aid lobby—we do not see it in our House, but we do in the popular newspapers—which paints a vision of resources being poured into land cruisers, sexual predators, bribery and corruption, instead of being given back to the British people. There is a fraction of substance to some of that, but it is hugely exaggerated. It is a way of disguising what are basically right-wing, free-market doctrines about subsidies and free markets. On the other hand, there are those who are against any critical examination of aid at all—all efforts, they think, to snatch food from the mouths of babes. They rose en masse against my Bill, although it was designed to secure one thing and one thing only: a more effective and rational planning of aid to maximise its benefits. Perhaps the Minister, on the ropes as he is this afternoon, will reconsider the case for my proposal.

3.44 pm

Lord Bhatia (Non-Afl) [V]: My Lords, I wish to say how sad it was to hear about Lord Judd's passing away. I have lost a mentor, a good friend and a good support. It is also sad to see the cuts that have been made by the Government to their manifesto commitment. It seems that we have lost our moral compass. Millions of women and children will die as a result of these cuts. I fully support the manner in which the noble Lord, Lord Alton, alerted us to the consequences.

3.45 pm

Lord Roberts of Llandudno (LD) [V]: I suggest that one of the places that will suffer most from this cut will be Yemen. We see what has happened there, the 85,000 children who have died from starvation in the last two years and the 20 million adults who are on the verge of starvation. We have to think again—for instance, in the light of the virus. There are 30 million people in Yemen and 300,000 vaccinations possible this past week. That need is not being met. If we have an ounce of compassion, we should look at that and somehow ease the situation in Yemen.

One of the things we could do is to reduce the armaments being sold by the UK to Saudi Arabia and make sure that we have the proper level—0.7% or even more—of our GDP. I ask that we do this and that we get our priorities right. Over these last few days, we have been speaking of the cost of renovating the flat at 11 Downing Street. We have been talking of a situation room, for the press and so on, which will cost £9 million. All these things need to be prioritised. We need to understand our moral obligation, and it must be to make sure that there is no reduction in the aid that we offer. Let us change, and let the Government show an ounce of heart at this very difficult time in the history of mankind.

3.47 pm

Lord Bellingham (Con): My Lords, I thank the noble Lord, Lord Alton, for his succinct and passionate opening speech. I always greatly valued his support in the past, when I chaired the all-party group on the Sudans and, before that, when I served as the FCO Minister for Africa in the coalition Government. The integrated review is an excellent document, and I am probably in the minority in the Committee in supporting the integration of the FCO and DfID. There is compelling logic in having one platform. The UK can deliver its aims and aid programmes more effectively by combining the two in that way, but the Minister for Development should be a senior Cabinet position and should be the deputy Foreign Secretary.

I have always maintained that the key to the overall aid budget is not the inputs but the outputs; it is the impact and the success of programmes. I have the opportunity to visit probably every African country bar about four, and in many I have seen small high-impact programmes doing the most phenomenal good on the ground. At the same time, I have seen much larger, more bureaucratic programmes in which waste was endemic. What is important is not just the money going in; it is how it is spent.

For this reason, I have always been in favour of clear consistency, so I support what has been said by noble Lords such as the noble Baroness, Lady Chalker: we need consistency. The noble Lord, Lord Hannay, made this point as well. I am not in favour of 0.7%, because it leads to inconsistency. As the noble Lord, Lord Hannay, pointed out, when the economy declines, we have a smaller aid budget and, when it grows rapidly, we may not be able to find the programmes to spend the aid.

As I am sure my noble and learned friend Lord Garnier is going to point out in a moment, the Government should not break the law. They should bring in a Bill and explain very clearly that we live in extraordinary times, with the £300 billion deficit. They should explain to the public why every department will have to make changes to its budget in the future. If they do that and win their vote on this Bill, with my support, so be it. If not, I would not support a break in the law.

3.49 pm

Lord Loomba (CB) [V]: My Lords, I thank the noble Lord, Lord Alton of Liverpool, for securing this important debate. He works hard to address various issues relating to humanitarian rights, education and poverty, to name but a few. I shall focus on the education of girls in developing countries. The reduction in development aid from 0.7% to 0.5% this year is justified, due to the aftermath of Covid-19. However, the FCDO must honour its commitment, as agreed with the UN, to revert to 0.7% as soon as the UK economy improves.

The Foreign Secretary has recently admitted that the budget for the education of these girls has been cut. It is a drastic reduction when you think about the importance of girls' education. It is every child's birthright to be educated, and this is more important for girls, as it will benefit not only the girls but their families,

[Lord Loomba]
communities and countries. Educating girls will increase literacy, reduce poverty and eliminate inequality. Former President Obama has said:

"It must be shaped by girls who go to school and those who stand for a world where our daughters can live their dreams just like our sons."

Does the Minister agree that the education of girls in developing countries is important and can he assure us that the UK Government will increase the budget for it as soon as possible?

3.52 pm

Lord Berkeley (Lab): My Lords, I congratulate the noble Lord, Lord Alton, on a masterful introduction to this debate. This is a very serious problem. As my noble friend Lord McConnell said, this cut shames our country. The government document *Global Britain in a Competitive Age* talks about international engagement in the introduction. How are the Government doing it and by what means? Is it engagement or is it threat? Engagement, to me, means friendly working with the needs of the less favoured countries by giving them some aid and helping them with research, not cutting the aid budget by £4 billion. According the Royal Society, part of that cut is a £500,000 cut in the relevant research budget. This is the ultimate engagement for further international research more widely, so why are they cutting it?

I see the Government instead going for the threat—sending an aircraft carrier to the Far East to rattle their sabres. I do not think it has any planes on it, but that does not seem to matter to them. We do not see so many nuclear submarines, but they cost even more of the £38 billion defence budget. Much of it is a threat. I suggest to the Minister that the Government need to reinstate the 0.7% funding. If they are short, they can reduce the defence budget from £38 billion to £34 billion. That would enable the aid budget to be reinstated. The Prime Minister, in his introduction to this document, talks about international engagement in the decade ahead. I suggest that that is better done by engagement, helping other countries with research, development economics and other advice, and reinstating the funding, rather than by pretending that we are a world power by sending aircraft carriers and nuclear submarines around the world. They do not help much in Yemen and other war zones.

3.54 pm

Baroness Bennett of Manor Castle (GP) [V]: My Lords, it is a pleasure to follow the noble Lord, Lord Berkeley, and to agree with his suggestion of a source of replacement funding. I thank the noble Lord, Lord Alton of Liverpool, for securing this debate and join him in marking the principled position of the noble Baroness, Lady Sugg, who is here today as Back-Bencher because she stood up for her principles. It would be nice to see some more of it.

In my brief slot, I, like the noble Lord, Lord Roberts of Llandudno, want to highlight, of all the disastrous cuts to the UK overseas development assistance, the slashing of aid to Yemen—poor, war-wracked, famine-tormented and Covid-plagued Yemen. We are, as a nation—or, at least, a handful of multinational companies based in our nation are—making huge profits from selling arms to Saudi Arabia, helping it to continue the disastrous war in Yemen. Here in Westminster, we often see those arms dealers and makers promoting their trade with billboard advertising, which is just a small sign of their lobbying muscle. The starving children of Yemen sadly lack the same vehicles of influence. That shows in the Government's priorities. Lobbying is about much more than Greensill.

The noble Baroness, Lady Northover, rightly said that these cuts are destroying our reputation in the climate change arena. That matters. As chair of COP 26, the Government need moral authority. The world, and the future, are depending on us. How can we preach the rule of law around the world, or be chair of COP 26, demanding transparency, honesty and practical action from other nations, when we are not following our own laws on overseas development assistance and subjecting government decisions to parliamentary scrutiny or making the promised aid payments that represent scant reparations for centuries of colonial and post-colonial destruction?

The integrated review proclaims our Government's supposed commitment to the rule of law. In the light of the Government's actions, it is not worth the energy taken to upload it. I say "upload" as a reminder that the whole world has access to and knowledge of what is happening in the UK. Shouting the words "world leading" means nothing. What counts is action, and the world understands the UK Government through their actions all too well.

3.57 pm

Lord Patel (CB) [V]: My Lords, the Foreign Secretary said that ODA is important for boosting international research. Cuts to the development assistance grant of more than £120 million over a year will have a devasting effect on established research and development projects in middle and low-income countries. The cuts will affect 800 UK-led projects in 69 countries funded through the Global Challenges Research Fund. For example, there are the Royal Veterinary College's projects in 10 countries involving 144 staff researching zoonosis and antibiotic resistance in poultry production. There is a cut of 67% in funding for projects in Jordan on understanding vaccine development for MERS-CoV, and a 73% funding cut to Royal Academy of Engineering projects in 17 countries involving hundreds of people that will affect leadership development programmes. The Royal Society's Future Leaders: African Independent Research fellowship programme, which helps develop future academic science leaders, has had its funding cut by 67%, leading to the immediate termination of jobs.

The cuts are halting research in scientific collaborations and will undermine the Government's ambition for the UK to be a science superpower and their pursuit of new forms of global relationship, giving the message that the UK is not a reliable partner. Global challenges require global partnership. With the UK at the helm of G7 and COP 26, now cannot be the time for the Government to row back on their ambition. Science is the heart of many solutions in health and climate that we desperately need right now. The Government having

built relationships and leadership now want to step back. In financial terms, the cuts may seem modest, but their impact is huge. Once lost, research capacity takes time to build and, in the meantime, the UK will cede ground to other countries. What plans do the Government have for the global partnership in science, research and development with middle and low-income countries? Is there an understanding in the Government of the damage being done by these cuts?

3.59 pm

Lord Balfe (Con): I thank the noble Lord, Lord Alton, for this debate. Unfortunately, it is in Cross-Bench time; I would have wished it to be in government time because, frankly, there are questions to be answered. One of them is: why have only two and a half speakers supported the Government, when I am speaker No. 36?

I want to pay tribute to my good friend Lord Judd, who I had known for almost 50 years. He was a great man in many ways.

We have had an unprecedented increase in public expenditure in the past year. There has never been more money spent. This is a petty cut, of which we should be deeply ashamed. It is not something we can justify; we are not up against it; we are not cutting everything. It is not something to be proud of; it is a petty decision. I pay tribute to my good and noble friend Lady Sugg for her willingness to make this an issue of principle, because that is what it is.

I feel that we are just playing to the gallery. Yes, it probably is popular to cut overseas aid. It would also be quite popular to bring back hanging. I recall once sitting next to Ted Heath at dinner and talking about hanging. He said, "Look, there's some questions you just don't ask." This is a question we should not have asked. We should not have asked people whether they wanted to cut aid to the poorest, and we should not go along with it.

I want the Government to come clean and tell us what they plan to do to restore this spending. If there was one proud moment in David Cameron's premiership and leadership, it was this. As someone who worked for David and who, as I have said, is still willing to say a nice word about him, I want to see it back again.

4.01 pm

Baroness Kennedy of The Shaws (Lab) [V]: I join today's repeated expressions of total dismay. I too am sad that Lord Judd, my mentor and great friend of many years, is not here to make one of his impassioned speeches. He is a great loss.

Two questions underpin this debate. Why was there no proper evaluation of the impact of this reduction beforehand? Or was there? Can the Minister help us? No business enters into some new policy or new programme of any kind without a risk assessment. Was this not done? Secondly, why do it at all? That question was raised earlier. I am afraid that I see it as a display of rather unpleasant populist politics, with the dog-whistle message that charity begins at home. There has been no explanation to the public that the best way to create our own security in a globalised world is to prevent the blowback that comes from failing to help the poor, underdeveloped nations, riven with conflict and disease and suffering the worst effects of climate change. Conflict, poverty and persecution are why mass migration is an increasingly serious issue for the West.

This is not just about money. The UK's expertise has led the world. DfID knew how to do development and understood that institution-building is the foundation of real change. I have seen it first hand in my own work on the rule of law. Helping draw up law to end child marriage and FGM, which has a huge impact on infant and maternal mortality; working on programmes of police and judicial training; helping to establish specialist courts to deal with gender-based violence; training prosecutors in sexual violence in conflict; working on the law on anti-corruption; developing legal systems and media freedom—all those things are done by the UK using our money in the interests of developing nations.

Development requires a package of overlapping mechanisms. That means fostering democracy, human rights and open government. This is soft power, and it works. How could we possibly think of sacrificing it? I hope the Government reconsider.

4.04 pm

Baroness Greengross (CB) [V]: My Lords, I add my thanks to the noble Lord, Lord Alton, and to the late Lord Judd, who inspired so many of us over the years.

When we discuss development aid, we are not talking solely about an act of charity by the UK for people in less well-off nations. By not investing sufficiently in such aid, especially in the area of public health, we undermine our own national security and, indeed, our public health. At a time when we have participated in such a successful vaccination programme, it is a tragedy to cut development aid funding, which strengthens work on clean water and other public health initiatives. These cuts could impact on poorer countries' fight against Covid-19 or allow an even more deadly virus to take hold, putting everyone in many countries, including our own, at risk.

I want to highlight another recent change that may also impact on our delivery in this area. In 2020, the Department for International Development was moved into the Foreign and Commonwealth Office. Also, the Government Equalities Office has recently been moved from the Home Office to the Cabinet Office. The rationale for these changes is not clear. The organisation Widows for Peace through Democracy has raised further concerns that they could weaken this country's leadership in championing women's rights, particularly widows' rights, as previously well-resourced teams run by experienced civil servants will not be funded or supported as well in future. Does the Minister have any more information about this?

I also wish to highlight the Government's decision last week to cut £143 million from the Foreign, Commonwealth and Development Office research budget. This year, the UK will host the United Nations Climate Change Conference—COP 26. Yesterday, I attended a meeting of the All-Party Parliamentary Corporate Responsibility Group, which I co-chair. We heard about efforts made by the Bank of England to take

[Baroness Greengross]
leadership, both nationally and internationally, to move the climate change agenda forward. It is extremely disappointing that, while we see this sort of leadership from organisations such as the Bank of England, we see this decision regarding FCDO research funding, which is likely to have—

Lord Parkinson of Whitley Bay (Con): My Lords, I am sorry to cut the noble Baroness off but this is a time-limited debate and we have to be quite strict with the two-minute speaking limit.

4.07 pm

Lord Polak (Con): I too pay tribute to the noble Lord, Lord Alton, for his thoughtful introduction and remember fondly my friend Frank Judd. I pray that his memory will be for a blessing.

I supported the 0.7% commitment made by David Cameron. I still support the 0.7% target. However, I am a pragmatist and a realist. I understand the constraints and welcome the Government's assurances that we will get back to 0.7% as soon as possible.

I believe that this is a good time for a reassessment of how our donations are spent, with a move from supporting large industrial-type institutions—with the accompanying waste—to supporting on-the-ground, smaller, nimbler organisations that ensure that those in need and who depend on support receive it directly. We have been told that water projects have been cut, but there are answers. I have raised the work of Innovation: Africa on previous occasions. Over the past 10 years, led by the inspirational Sivan Ya'ari and via Israeli solar technology, it has given more than 500 remote villages in Africa and more than 3 million people fresh running water, electricity and light. They have been given hope and dignity, paid for by philanthropists. This philanthropy should be supported, not relied on. It is time to reassess. I appeal to my noble friend the Minister, who understands the concepts of value for money and spending wisely, to take a good look at how our money is spent. Supporting programmes such as Innovation: Africa helps people on the ground.

Ten billion pounds is a lot of money. We are generous, but our generosity should be managed and targeted far better. As a result, it will go further. Does my noble friend the Minister agree that the time is right for a serious appraisal of how taxpayers' money on aid is spent?

4.09 pm

Lord Garnier (Con): My Lords, I am grateful to the noble Lord, Lord Alton, for securing this debate and for the way he introduced it. Since the enactment of the International Development (Official Development Assistance Target) Act 2015, the Secretary of State for International Development—and now the Foreign, Commonwealth and Development Secretary—has been under a statutory legal duty to ensure that the United Kingdom hits the 0.7% of gross national income, or GNI, for official development assistance every year. That target is a relative figure, not an absolute one, as the noble Lord, Lord Hannay, pointed out.

The Secretary of State also has, by law, to make an annual Statement to Parliament reporting on the previous year's performance. If it turns out that the 0.7% target has been undershot, the Statement must retrospectively explain why, referring if relevant to the effect of changes in economic and fiscal circumstances of any substantial change in GNI and the likely impact of meeting the target on taxation, public spending and public borrowing, or to circumstances arising outside the United Kingdom.

Until Parliament changes that law on the statutory duty, the Government must aim to hit it. They cannot deliberately aim off or fire blanks. They can say they intend to change the law or substitute another target, but until the statute is repealed or amended the Government are subject to that law. They cannot legitimise failure to hit a target by announcing in advance their intention to fail.

The Government, of course, know this. Speaking on the Statement on the recent spending review, my right honourable friend the Chancellor told the other place that, since the Government

"cannot predict with sufficient certainty"—[*Official Report*, Commons, 25/11/20; col. 870.]

what the "fiscal circumstances" will be, they will have to legislate to change the law. The Foreign Secretary said the same thing from the Dispatch Box the very next day. My noble friend Lord Ahmad recognised those obligations in your Lordships' House and expressed the Government's intention to remain within the law.

While accepting that for the Foreign Secretary deliberately to breach his statutory duty to meet the 0.7% target will not lead to his prosecution, it would none the less be unlawful and something for which he would be held accountable by Parliament. It would do neither his reputation as a lawyer nor the Government's domestic or international standing any good to be seen once again to be flouting a clear legal obligation.

If the Government disagree with Prime Ministers May, Cameron, Brown and Blair and are not concerned about: sacrificing the United Kingdom's moral authority; breaking a promise we do not need to break; presiding over the G7 while breaking one promise to meet another; or whether the 0.7% target is enlightened self-interest, the way forward is clear. I agree with my noble friend Lord Bellingham; the Government should change the law through Parliament and not break it out of convenience. I respectfully disagree with my noble friend Lord Balfe and the late Sir Edward Heath. We not only need to ask these questions, but to be—

Lord Parkinson of Whitley Bay (Con): My Lords, I am sorry to interrupt my noble and learned friend, but we must again be strict with the time limit.

The Deputy Chairman of Committees (Baroness Finlay of Llandaff) (CB): I call the next speaker, the noble Lord, Lord Desai. Lord Desai?

For a third time, I will try to call the noble Lord, Lord Desai. Perhaps the noble Lord needs to unmute? If he is not here, I will move on to the noble Lord, Lord Naseby.

Lord Desai (Non-Afl) [V]: I am trying to unmute. Someone has to unmute me, I am sorry.

The Deputy Chairman of Committees (Baroness Finlay of Llandaff) (CB): We can hear you, please speak now for your two minutes.

4.12 pm

Lord Desai (Non-Afl) [V]: I want to quickly say that, while I deplore the cut, I think we should not be giving money for our soft power or anything else. We should give money only for the betterment of the poorest people. The way to do that is a direct cash transfer to the poorest people. It is possible now with the machinery that many Governments have set up to pass money directly to them, and let them use it for their own development. We should not be setting the agenda for development in our interests. This money is for the poor; it should reach the poor and the poorest. If we cannot do that, we should really examine how we can improve the performance of our development policy and get the money to the poorest.

4.14 pm

Lord Naseby (Con) [V]: My Lords, I pay tribute to my noble friend Lord Alton: over many years, he has shown consistent creative thinking and action on aid, so I thank him. He highlighted Yemen and was so right; dear old Aden was part of it—that is possibly the worst problem area there is at this point in time. If the UN is worth anything, it should do more than it is doing there, and we should look at that again. He highlighted evidence on water security and was so right, as too was my noble friend Lord Polak, when he said that it is time that we reassessed the impact of the way that we are spending our money. I put forward that organisations such as Amnesty International, which stepped over the line in India and Sri Lanka, Freedom from Torture and others should all be looked at closely.

I understand the possible need for a temporary cut; I accept that it is a requirement at this point in time. However, I urge Her Majesty's Government to make it absolutely clear exactly when they are coming back to 0.7%, and how.

I move on to the situation in the integrated review concerning the "Indo-Pacific tilt" and this axis of trade, with its choke points for navigation. This means the bottom end of India and Sri Lanka. We miss an opportunity with India: what is our high commissioner in India doing? He or she must have known that there was a huge problem blowing up, so why did we not stand by with emergency facilities ready at Brize Norton? We should follow that up now, as they are real friends and need help. The same is true of Sri Lanka, which was ignored by the West over the Tamil Tigers. It needed help to defeat these terrorists; it needs understanding on human rights and does not need to be chased with bogus evidence that is kept secret for 20 years in the Darusman report.

4.16 pm

Baroness D'Souza (CB): My Lords, Afghanistan is the most aid-dependent country in the world: aid is 60% of its budget. Reducing aid to this benighted country, in addition to the proposed departure of military personnel, will damage an already fragile state and increase widespread deprivation. This is one of the conclusions of the excellent and comprehensive report of the International Relations and Defence Committee. A likely result of these combined factors will be to ease the passage to a Taliban takeover and a consequent further destabilisation of the entire region.

If the UK Government are serious about pursuing their stated objectives of girls' education, humanitarian response and preparedness, open societies and conflict resolution, among others, then surely they must think again about how best to achieve these priorities. The total ODA budget, dependent as it is on GNI—

4.17 pm

Sitting suspended for a Division in the House.

4.23 pm

The Deputy Chairman of Committees (Baroness Finlay of Llandaff) (CB): My Lords, we will resume. Would the noble Baroness, Lady D'Souza, continue her speech from where she was interrupted?

Baroness D'Souza (CB): As I was saying, the total ODA budget, dependent as it is on GNI, will be substantially lower anyway. The added cuts will affect those programmes that can least withstand budget cuts. This includes the support of women and girls in those countries most severely threatened.

Despite the astonishing gains made by women in Afghanistan over the last 20 years or so, the Taliban has made it clear that there is little change in its worldview, belief systems and patterns of ruling. What is at stake is not only a return to violence, terror and, above all, savage repression of women but the potential for ethnic division. In the current context in Afghanistan that will mean a war against all non-Pashto-speaking or non-supportive groups by the Taliban. A civil war on this level would be devastating and set Afghanistan back several decades—a religious war engulfing south Asia and probably well beyond.

The UK, which, in supplying some of the more hard-line mujaheddin groups with arms in the 1980s, contributed to the formation of the Taliban, surely would not wish this kind of legacy. While the UK, even working with its allies, will not eradicate the Taliban, its consistent commitment to building the institutions of democracy has definitely had an impact. It would be heartbreaking and irresponsible to see these gains lost in a matter of months.

4.25 pm

Lord Purvis of Tweed (LD): My Lords, it is customary in these debates that there is a gap on the speakers' list before the Liberal Democrat Front-Bench speaker. Today, the gap is that Lord Judd is not with us. We on the Liberal Benches pass on our commiserations. Many noble Lords, and those on the Labour Benches in particular, have lost a friend—a very noble one at that—who would have made a major contribution to this debate. He is missed. A colleague who is not missed is the noble Lord, Lord Alton—

Noble Lords: Oh!

Lord Purvis of Tweed (LD): I think noble Lords have not interpreted that as I intended. The noble Lord will not be missed for a very long time to come. He is to be commended on bringing this debate to the Grand Committee and on the very powerful way in which he introduced it. It is a commendation to him and to his work in this House.

The whole House was united yesterday in support of the Government providing additional medical equipment and support to India. The Government chose not to deny extra support because of the fiscal situation here at home and instead provided it because of a medical emergency abroad. So, when it is in the Government's choosing, additional humanitarian assistance is provided. But it is also in the Government's choosing to halve support for children and mothers in conflict-afflicted Yemen, which is suffering the world's worst humanitarian crisis. It is in the Government's choosing to halve health centre and medical provision in South Sudan, which is literally a lifeline for millions. It is in the Government's choosing, as highlighted by the noble Baroness, Lady Sugg, to cut by 40% UK funding for girls' education after saying that it is a priority, but then to refuse, as the Foreign Secretary did to the International Relations and Defence Committee yesterday, to be transparent in so doing because it would embarrass the Government during discussions with the Kenyan Government on us jointly hosting an international conference on the subject in the summer. The noble Lord, Lord Goldsmith, who will reply to this debate, told the House on 16 March:

"We will use our G7 presidency this year to rally the international community to step up and support girls' education".—[*Official Report*, 16/3/21; col. 179.]

How grotesquely hollow this sounds one month on.

The noble Lord, Lord Ahmad, told the House last week that the economy has seen a shrinkage of 11% owing to the pandemic. The law allows for such a reduction in ODA to reflect this, painful as it would be, but it is the Government's political choice, as the noble Lord, Lord McConnell, indicated, to cut bilateral aid by 50%. They believe that it is popular, but no one seems—or rather very few seem—to be speaking up for it with confidence. It is a political choice of the FCDO and its Ministers, as the noble Lords, Lord Khan and Lord Alton, indicated, to cut by 80% bilateral water, sanitation and hygiene projects in the height of the pandemic, when the Government themselves paid for advice on handwashing and clean water to be the first line of defence on Covid. These are political choices, because we knew what the extent of the impact on the economy was likely to be by the end of October last year.

Some called for the Conservatives to cut ODA at that stage. The noble Lord, Lord Goldsmith, said in response to one of those calls on 23 October—I quote directly from his tweet—

"You couldn't have got this more wrong. It was the Conservatives under @David_Cameron who put the 0.7% aid commitment into law. And of all the countries who made the same commitment, just 5 (including the UK) have honoured it."

The Government are dishonouring this commitment, and their 2015, 2017 and 2019 manifesto commitments likewise.

I care less about the Conservatives' manifesto commitments than I do about the law. The noble Lord, Lord Goldsmith, told the House on 17 March that

"we have had to make some hard choices, including temporarily reducing the ODA target from 0.7% to 0.5% of GNI".—[*Official Report*, 17/3/21; col. 302.]

This addresses the exact point that the noble and learned Lord, Lord Garnier, mentioned in his very effective contribution to this debate. It is a breach of the law to set a new target. This is prohibited by the 2015 Act and the duty remains to meet 0.7%. If, however, in the course of honouring that duty, because of unplanned internal or external circumstances, during the reporting year 0.7% had not been met, Section 2 requires a statement to be laid before Parliament. Section 2 does not permit a proactive missing of the target in a forthcoming year, as the Government have announced.

Critically, the element of the law that the Minister chose to ignore when he answered questions on 16 March, and that Ministers have deliberately ignored since November, is that Section 2(4) requires:

"A statement under subsection (1) must also describe any steps that the Secretary of State has taken to ensure that the 0.7% target will be met by the United Kingdom in the calendar year following the report year."

This Government have announced proactive and deliberate moves to renege on the duty to meet 0.7%. That is not provided for by the second provision and they have not stated how it will return.

4.31 pm

Sitting suspended for a Division in the House.

4.37 pm

The Deputy Chairman of Committees (Baroness Finlay of Llandaff) (CB): My Lords, we will now resume and continue with the noble Lord, Lord Purvis of Tweed.

Lord Purvis of Tweed (LD): My Lords, the second major part of this debate refers to the Government's assertion that we will return to this duty, which they are reneging on, when the fiscal situation allows. This is what the Minister told the House on 16 March. I have asked the noble Lord, Lord Ahmad, three times in the Chamber what those fiscal criteria are and I have not received an answer. The noble Lord, Lord Alton, specifically asked the noble Lord, Lord Goldsmith, the same question today and I hope that there will be a reply. As I said in our debate on the integrated review, the Government either know what the criteria are, and are actively and deliberately withholding them from Parliament, or they are simply using disingenuous language. The Minister must tell us which it is today; he has 20 minutes and there is no reason not to spell this out in his response to the debate, because he has been asked that specific question.

There are, then, two areas of unlawfulness. One is the setting of the new 0.5% target that the Minister has referred to. Can he also state where in legislation it allows the Government to set a target at 0.5%?

One of the themes of this debate, which has been heartbreaking, is that the Government have not carried out humanitarian impact assessments for the extent of the cuts that they are making. The noble Lord, Lord Ahmad, also refused to answer a question from me about whether the cuts for Yemen came after an impact assessment. Chris Bold, the development director for Yemen, admitted to a House of Commons committee:

"We have not done an impact assessment."

If the Government believe that the cuts are popular—though not based on evidence and without having carried out an impact assessment—why are they not simply being honest and straightforward in telling us what the criteria are, and what the impact is likely to be?

I said at the outset that I would not cite the broken Conservative manifesto commitments, but I will cite another manifesto, if the Committee will allow me:

"we wish to see the breaking down of barriers to international trade. Greater freedom in international trade will assist the underdeveloped countries who need markets for their products. We support the principle that in accordance with the Pearson Report Britain and other countries should contribute 1 per cent of Gross National Product of official aid to developing countries as soon as possible. We are totally opposed to all forms of racial and religious discrimination."

That was the Liberal manifesto for the June 1970 election, which predates the UN resolution of October 1970. I cite it not because I am proud that my party has stood the test of time with this commitment but because it was a global consensus on which, after many years, there was a political consensus in the UK between the parties and beyond parties, with Gordon Brown as Chancellor and Tony Blair as Prime Minister, and later under David Cameron, Nick Clegg and Theresa May, which has now been dashed by this Government.

A journalist reported in 2019:

"Penny Mordaunt gave a presentation on foreign aid in which she said 0.7% in the current form is 'unsustainable'."

On 29 January 2019, the noble Lord, Lord Goldsmith, replied:

"I hope this is incorrect. The 0.7 per cent commitment isn't simply about charity. Spent properly, foreign aid makes the world safer, more sustainable and more stable. It benefits us all."

Our contribution to making the world safer, more sustainable and more stable is being reduced, by an unlawful cut, by one-third this year and next, and there is no transparent commitment for the year after. As was said recently in a meeting chaired by the noble Lord, Lord McConnell, which I attended, we are not cutting aid, we are cutting co-operation. We are not a lesser donor, we are a more unreliable partner—but not in my name or that of my party.

4.41 pm

Lord Collins of Highbury (Lab): My Lords, the noble Lord, Lord Purvis, rightly referred to the development of a cross-party political consensus over decades, and here I would like to pay tribute to my noble friend Lord Judd, who was part of building that consensus. As we have heard today, he worked across all parties for that end. That cross-party consensus has secured for the United Kingdom a very strong international reputation for saving millions of lives. That is the important starting point for today's debate.

I also want to reinforce the point made that sustainable development is in everyone's interest, including that of the United Kingdom. That is why a decision to cut aid by such historic proportions is a such a reckless idea. It is an enormous mistake to think that we can stop supporting initiatives on the scale proposed by the Government and assume that it will not have consequences for us in the United Kingdom. As the noble Baroness, Lady Hodgson, said, extreme poverty, hunger, inequality and the absence of basic services are all root causes of violent conflict, yet the Government will be cutting programmes in each of these areas. It is inescapable that more people will suffer without the United Kingdom's support and that same suffering over years and decades will manifest itself as a danger to us all.

As the noble Lord, Lord Hannay, my noble friend Lord Cashman and other noble Lords have said, we must remember that even if the Government had continued to spend 0.7% of GNI, that would not have avoided cuts, given the shrinking economy.

4.44 pm

Sitting suspended for a Division in the House.

4.49 pm

The Deputy Chairman of Committees (Baroness Finlay of Llandaff) (CB): My Lords, we will now resume. We will continue with the noble Lord, Lord Collins of Highbury.

Lord Collins of Highbury (Lab): By bringing down the budget to 0.5%, the Government will be making it impossible to maintain the order of priorities to deliver the objectives of the integrated review. However, the reason these cuts are so dangerous is not just because of their size: it is also because of where they will fall and their speed.

The noble Lord, Lord Alton, in his excellent introduction, mentioned the leaked memo. Other noble Lords have mentioned the cutting of funding for life-saving access to clean water by 80%. However, the Power of Nutrition, of which the FCDO is a founding partner, is set to have its funding slashed by more than 50%—I declare an interest as co-chair of the Nutrition for Growth APPG. Nutrition represents the biggest multiplier in development. We have been a leader around the globe on nutrition; it is appalling that these cuts are taking place. UNAIDS, which is at the forefront of tackling HIV globally, has had its funding cut by 85%. The Global Polio Eradication Initiative has been told that it will receive just £5 million from the FCDO this year, a cut of 95%. Save the Children estimates that last week's announcement will result in 3 million fewer people receiving life-saving assistance. Is this really the kind of country that we want to be?

I hope that the Minister will be able to answer questions this afternoon. Can he assure the House that he will honour the financial commitments that his department has made to multilateral organisations, such as Gavi and the Global Fund? Will he, if he intends to give just £5 million to the Global Polio Eradication Initiative this year, make up for the shortfall in subsequent years? Will he commit today to honouring his Government's commitment of £400 million by 2023?

[Lord Collins of Highbury]
Can he tell us the budget allocated for nutrition programmes over the next year and, if he cannot today, when will he be able to tell us?

The speed of these cuts is also dangerous. It seems incredibly unlikely that the department would have had sufficient time to consider their impact and prioritise effectively. We have already received confirmation—my noble friend Lady Kennedy of The Shaws raised this—that no assessment had been made of the impact of aid cuts in Yemen. Without effective exit strategies, there is now a huge risk that the previous achievements will be thrown away. The speed of these cuts has meant that the Government have been unable to consult civil society and the aid sector properly. As a result, organisations have been unable to plan effectively to respond to the cuts. Can the Minister detail how the Government are engaging with the aid sector, and what representations have been recently received?

To think that our reputation will be intact after the Government ignore their own manifesto commitments and their own laws in breaking the 0.7% is absolutely ridiculous, as the noble Lord, Lord Hannay, has said. Our closest allies—the US and the rest of Europe—all accept that a global crisis requires more support, not less. My noble friend Lord Khan has made this point. President Biden announced an increase of more than $5 billion for USAID. In the past year, France and Germany have increased development spending by 11% and 14% respectively. Japan, which the review refers to as

"one of our closest strategic partners"

is also spending more on aid than ever before. If the Government are serious about strengthening our alliances, then the answer is not to move carelessly out of step on development. The Government must offer a positive vision for international development.

The greatest framework for this is the UN sustainable development goals. I too pay tribute to David Cameron: his leadership on the SDGs was vital, building on the leadership of Gordon Brown on the millennium development goals. That leadership has, I am afraid, been abrogated. We must provide that positive agenda. The 2030 agenda, if achieved, will end extreme poverty, hunger and gender-based violence, and ensure that every individual has access to rights including safe drinking water, quality education and clean energy. But the Government have abandoned those previous efforts to lead on the SDGs; the drastic reduction in development aid is only further evidence of that.

The integrated review is welcome, and I hope the whole House would support the idea of the UK being a force for good. But the Government will not achieve this for the UK by withdrawing from the world, reducing UK development aid and making cuts in all the worst places. There is no question that by following this path, the Government will make the world a more dangerous and less predictable place, making the review's emphasis on security and resilience completely meaningless. We all want Britain to succeed on the world stage but for the integrated review to be worth the paper it is written on, the Government need to end the contradictions and inconsistencies between their words and actions. That starts with supporting once again the principles of sustainable development.

4.56 pm

The Minister of State, Department for the Environment, Food and Rural Affairs and Foreign, Commonwealth and Development Office (Lord Goldsmith of Richmond Park) (Con) [V]: My Lords, I start by echoing the remarks of so many noble Lords about the late Lord Judd. I did not know him personally but it is clear from the tributes that have been paid that he had a significant impact.

This is a landmark year for UK leadership on the world stage. As countries around the world continue to grapple with the profound economic and social consequences of Covid, the UK stands with them as an active, confident, internationalist, burden-sharing and problem-solving nation—as a force for good in the world. We are setting this tone through our G7 presidency in June, co-hosting the Global Partnership for Education pledging summit with Kenya and hosting COP 26 in November, a truly critical moment in the global fight against climate change.

In this year of global leadership, we have produced the most comprehensive articulation of UK foreign policy and national security that has been published by a British Government in decades. The integrated review of security, defence, development and foreign policy sets out the Prime Minister's vision for a stronger, more prosperous union in 2030. It has, at its heart, the protection of the interests of the British people, of our sovereignty, our security, our health and our prosperity.

As my noble friend Lord Ahmad told the House only last week, the integrated review identifies the key trends and challenges that will guide UK foreign policy for the decade ahead. It covers: the geopolitical and geo-economic shifts that will define our new alliances and partnerships including, as a number of noble Lords noted, in the Indo-Pacific region; the increasing competition between states over diverging interests, norms and values; the consequences of rapid technological change in areas such as artificial intelligence, cyber and data; and, perhaps most importantly, the transnational and existential threats to our shared climate, biodiversity and health—truly global challenges that already affect every person on this planet, illustrated so acutely by the Covid-19 pandemic.

A strong and credible UK offer on international development will be fundamental to delivering the objectives of the integrated review because the UK's sovereignty, security, health and prosperity do not exist in a vacuum. With respect, I disagree with the noble Lord, Lord Desai, and agree with, among many others, the noble Lord, Lord Collins of Highbury: our interests are bound up with the sovereignty, security, health and prosperity of people living many miles from our shores. We know that poverty, marginalisation and exclusion, in Africa and Asia and elsewhere, sow the seeds for challenges that affect us here at home, including illegal migration, conflict, terrorism and the spread of disease. That is why the UK will continue to act in the interests of the world's poorest people. Providing hope and opportunity is not just the right thing to do; it is firmly in our national interest.

We will deploy our diplomatic network to promote UK values on freedom, open societies and human rights around the world. We will be a voice for the poor and

marginalised in multilateral fora such as the UN Security Council and at global summits such as COP 26. I say in answer to the noble Lord, Lord Alton, that that includes the use of soft power. He mentioned the important work of the British Council, which is, as he said, a key soft power asset. I can reassure him that the council will receive £189 million of grant in aid for 2021-22, an increase on the £149 million it received in 2020-21. That point was echoed by the right reverend Prelate the Bishop of Rochester, who rightly added that, where UK aid withdraws, that void can, and likely will, be filled by those with less benign interests. The noble Baroness, Lady Randerson, delivered the same warning.

We will continue to provide lifesaving aid and basic services in the world's poorest countries through our overseas development assistance spending, because, despite the unique and extreme financial pressures imposed on us by Covid, the UK remains, in both percentage and absolute terms, one of the world's most generous aid donors. In 2020, we spent more than £14 billion fighting poverty and helping those in need, including £1.3 billion of humanitarian support to famine and conflict-affected regions. We have pivoted more than 300 of our existing ODA programmes to respond to the economic, social and health consequences of the global pandemic. For the eighth year running, we have proudly met the 0.7% ODA target.

Clear interest has been expressed today in UK aid spending for the year ahead. As the Chancellor of the Exchequer set out to Parliament on 25 November, we cannot ignore the seismic impact of the Covid pandemic on the UK economy. Notwithstanding the swift action we have taken to safeguard jobs and livelihoods, this is the biggest economic contraction in 300 years. It has caused a budget deficit of almost £400 billion, which is double the level of 2008. We must safeguard the public finances. For this reason, the Government have taken the tough but necessary decision temporarily to reduce the UK's commitment to spending 0.7% of gross national income on overseas development assistance. This year, we will instead spend 0.5% of GNI.

I must reiterate—this point was driven home by my noble friend Lord Lancaster of Kimbolton and raised by my noble friends Lord Balfe and Lord Naseby—that this is a temporary reduction, driven by prevailing fiscal circumstances. My noble and learned friend Lord Garnier cited the International Development (Official Development Assistance Target) Act 2015. My noble friend Lady Sugg also raised this issue. The Government have been clear that they will act in line with the Act, which, as noted by a number of noble Lords, explicitly envisages that there may be circumstances where the 0.7% target is not met. Despite the comments of the noble Lord, Lord Liddle, it is not a decision that we have taken lightly.

Of course, the shift to 0.5% will not be pain free. I assure the noble Lords, Lord Purvis and Lord Hannay, that I know that there will be real-world impacts on some of our activities. The noble Lord, Lord Lipsey, noted the polarised nature of the debate. I agree with him. The noble Lord, Lord Bhatia, said that millions would die because of this policy decision. There, I disagree: let us not forget that millions of lives are saved, and will be saved this year as every year, as a direct consequences of our interventions and our aid. My noble friend Lord Bellingham made the point that the output is more important than the input. Although I am determined, as I believe he is, that we return to 0.7% as quickly as we can, he is nevertheless undoubtedly right.

We are focused on ensuring that every penny of ODA brings maximum strategic coherence, impact and, in answer to my noble friend Lord Polak, value for the taxpayer, now more than ever. I thank my noble friend for bringing to our attention his examples of highly effective, Israeli-backed charities working in Africa, which I will look into in more detail in due course.

A number of noble Lords raised specific programmes, concerned that they may have been caught up in the cutbacks. The noble Baroness, Lady Coussins, mentioned the volunteering for development, or V4D, grant to Voluntary Service Overseas, or VSO, and funding via H2H for Translators without Borders. The noble Baroness, Lady Jay, also mentioned VSO. The noble Lord, Lord Crisp, raised a range of important programmes in addition, as did the noble Lord, Lord Collins of Highbury, and other noble Lords. I am afraid that all I can say at this point, which I know will be frustrating, is that FCDO programme managers are working with their suppliers and delivery partners to determine the precise implications for each programme. However, we have protected UK civil society organisations from cuts wherever possible.

My noble friend Lady Sugg asked for more transparency. I can reassure her that, as is usual, the full official development assistance budget per country and business unit for 2021-22, along with final audited spend for 2020-21, will be published in the annual report and accounts in due course.

The UK remains a world leader in international development. We will spend £10 billion on ODA in 2021, meaning that, this year, the UK will still be the third-largest ODA donor in the G7 as a percentage of GNI. With respect, I therefore cannot accept the suggestion made by the noble Baroness, Lady Goudie, that we are no longer taken seriously. The Foreign Secretary recently concluded a thorough review to ensure that our ODA marks a strategic shift, putting our aid budget to work alongside our diplomatic network, our science and technology expertise and our economic partnerships.

In helping to tackle global challenges, we will focus on core HMG priorities with the overarching objective of poverty reduction. The integrated review has helped to guide the process by setting out how, as an independent and sovereign global Britain, we will act as a force for good and use our influence to shape the future international order. This, I believe, answers the question asked by the noble Baroness, Lady Greengross, about DfID and the FCO merging to become the FCDO.

To deliver this vision, resource has been allocated to the seven priorities that the Foreign Secretary set out to Parliament on 26 November. The first is climate and biodiversity, our top international priority. As the noble Baroness, Lady Bennett, said, one of the great injustices of climate change is that the world's poorest

[Lord Goldsmith of Richmond Park]
countries—the lowest emitters—will be most heavily hit by its impacts. The UK is the first major donor nation to commit to making its entire ODA portfolio compliant with the Paris Agreement—something we are encouraging all other donor countries to emulate. Likewise, we have committed to ending all direct UK Government support for the fossil fuel energy sector overseas, encouraging as many countries as possible—all countries, ideally—to commit to the same.

In response to the question from the noble Lord, Lord Khan of Burnley, let me say that, in this COP 26 year, we are spending £1.4 billion of ODA on international climate finance, thus starting the trajectory towards doubling our ICF commitment to £11.6 billion by 2025, as promised. Also, on nature, the Prime Minister recently announced that the UK will commit at least £3 billion of our international climate finance to protecting and restoring the natural world and biodiversity over the next five years. This is a world-leading commitment, harnessing the power of nature to trap carbon and support some of the world's most vulnerable communities that depend most directly on the free services that nature provides, which we are desecrating globally at an appalling rate. This policy is good for the poor, good for the planet and, by extension, good for all of us. We hope that other donor countries will follow.

Our second priority is global health security. I hope that the noble Lord, Lord Collins of Highbury, will be reassured to hear that the FCDO will spend more than £1.3 billion on global health this year. I say in response to my noble friend Lady Hodgson of Abinger and the noble Lord, Lord Purvis, that we have very much been at the forefront of the international response to Covid-19 through our commitments to COVAX, Gavi and the World Health Organization, as well as through bilateral spend where the need is greatest, particularly in Africa. I hope that this also reassures the noble Lord, Lord Chidgey, and my noble friend Lady Chalker of Wallasey, who asked the same question.

To go back briefly to the question from the noble Lord, Lord Purvis, about whether our commitment to Gavi remains, the answer is yes. As agreed previously, we will maintain our commitment to support Gavi at the current levels.

I say in response to my noble friend Lady Chalker of Wallasey that UK expertise in science, research and development has led to one of the first effective and affordable Covid-19 vaccines. In September, the Prime Minister committed £548 million to the COVAX Facility to ensure that these vaccines can reach the world's poorest countries. We have also pledged up to £1.65 billion to Gavi over the next four years to support millions of routine immunisations, and we recently announced a further £340 million between 2020 and 2024 in core contributions to the WHO; that is additional to our £120 million annual average commitment. This will provide technical guidance and operational support to maintain health services in poor and developing countries.

Our third priority is girls' education. This issue was raised by a number of noble Lords, including the noble Lord, Lord Purvis. I can tell him that the FCDO will spend £400 million on girls' education this year. We will invest directly in more than 25 countries, helping to achieve the global target to get 40 million girls into school. Of course, we will also demonstrate our leadership by co-hosting the Global Partnership for Education summit in July; we will announce details on the UK's contribution to GPE in due course. As co-hosts of the summit, we are using all the means at our disposal to help the Global Partnership for Education to secure its five-year financing target of $5 billion. I hope that this reassures the noble Lords, Lord Loomba, Lord Hastings and Lord Chidgey, who all raised this important issue during their speeches.

The fourth area is humanitarian preparedness and response. We will spend over £900 million this year to maintain the UK's role as a force for good at times of crisis. We will focus our country's bilateral spend on those countries most affected by the risk of famine, including—in answer to the noble Lord, Lord Roberts of Llandudno—Yemen, Syria, Somalia and South Sudan. A £30 million crisis reserve will enable us to respond rapidly to new crises. We will use our position as a leading humanitarian actor to drive improvements in how assistance is delivered globally and to project UK values through the humanitarian system.

The fifth area is science and technology. The integrated review clearly outlines that science and tech is an "integral element" of our international policy—this point was made by the noble Lord, Lord Patel, and the noble Baroness, Lady Northover. ODA-funded research by the FCDO has led to the first internationally approved vaccine to prevent Ebola; the world's first anti-malarial drug, saving more than a million lives; and micro-nutrient-rich varieties of staple food crops, feeding 50 million people. That is why this year, across government, we will make £370 million of R&D investments across all seven themes of the ODA strategy.

The sixth area is open societies and conflict resolution. The FCDO will use over £400 million to harness the UK's unique strengths in conflict management and resolution and to project our support for democratic values, institutions, human rights and freedom of religious belief. This point was made by the noble Lord, Lord McConnell of Glenscorrodale, and I add in response only that we will utilise the UK's expertise on conflict management and resolution through the newly created FCDO office for conflict mediation and stability, which will have the central co-ordinating function for all conflict work across government.

In response to the point made well by the noble Baroness, Lady Kennedy, about the critical importance of judicial capacity-building and the rule of law, I say that the IR absolutely confirms that our ODA will support core campaigns in support of British values, standing up for democracy and democratic institutions, the rule of law, media freedom, human rights and freedom of religious belief. I hope that this also provides some reassurance to the noble Lord, Lord Cashman, who asked a similar question. We will further drive, impact and support democratic values and institutions through our diplomacy, including our new sanctions policy, which will shortly be extended to cover corruption.

The noble Lord, Lord Alton, mentioned the grim conflict in Tigray in Ethiopia; I reassure him that, during his visit to Ethiopia on 22 January, the Foreign Secretary pressed Prime Minister Abiy for a political

dialogue to bring lasting peace to Tigray and to make clear the need for unfettered humanitarian access. Since 2019, UK aid has provided £19 million of support, ensuring that displaced people have access to food, shelter, water, sanitation and basic health. The noble Lord also mentioned human rights abuses in Nigeria, which are, of course, a major concern of ours as well. The Minister for Africa is in Nigeria this week, and he will continue to make clear, at the highest levels, the importance of protecting civilians—including those from different ethnic and religious communities—and human rights for all Nigerians.

Both the noble Lord, Lord Alton, and the noble Baroness, Lady D'Souza, mentioned Afghanistan. Since 2001, the UK has provided £3 billion in development and government assistance to Afghanistan. Partly thanks to UK aid, life expectancy increased from 50 years in 1990 to 64 in 2018. There are 8.2 million more children in school since 2002, and 39% of those enrolled are girls. We are working closely with the US, NATO allies and partners, but, for there to be any chance of a lasting peace, the Taliban must engage meaningfully in a dialogue with the Afghan Government. Any change to our security presence will be made in agreement with allies and after consultation with our partners.

Finally, in response to the noble Viscount, Lord Waverley, I raise the subject of economic development and trade. The FCDO will spend over £490 million to support new trading relationships with developing countries, complementing our wider multilateral and capital investments to build our trade and investment partners of the future. To answer my noble friend Lord Sarfraz, I can say that we will use the CDC and multilateral partners to drive mutually beneficial growth with strategic partners in circumstances where, as he points out, private sector investment is not practicable.

Within this framework, we will focus on exerting the maximum possible influence as a force for good in Africa—and at the same time strategically tilting towards the Indo-Pacific. We will spend around half of our bilateral country ODA in Africa, where poverty and human suffering remain the most acute. We will focus 60% of that bilateral Africa spending on east Africa, to reflect the UK's unique role and clear national strategic interest in countries such as Ethiopia, Kenya, Somalia, and Sudan.

In answer to the right reverend Prelate the Bishop of Southwark, I say that we will spend one-third of bilateral ODA in the Indo-Pacific and south Asia, supporting deeper engagement in that region, promoting open societies, reinforcing trade links and promoting collaboration on climate change. Although we are reducing the amount of ODA that the FCDO spends in China, we will continue to fund programmes on human rights and open societies.

The integrated review provides a vision for global Britain; a problem-solving and burden-sharing nation with a global perspective, embracing innovation in science and technology and a beacon of democratic sovereignty. Our leadership on international development —focused on the global fight against climate change, the environment and poverty—is a fundamental part of this integrated approach.

The strategic framework for international development that I have outlined represents a compelling and competitive offer to the developing world that is consistent with our values and interests. I am proud of our aid spending and the huge amount we do every day to support the world's poorest and most vulnerable people. Even in the toughest economic times, we will continue that mission to deliver the vision of the integrated review and to act as a force for good.

5.16 pm

Lord Alton of Liverpool (CB): My Lords, I thank the noble Lord, Lord Goldsmith, for his response to a debate marked by well-informed and wise speeches—many rooted in personal and first-hand experiences. In the absence of government time, the Cross Benches have performed an important service in facilitating this debate. The Minister has just told us what we are doing using our overseas development aid; indeed, it was a compelling speech about the importance of ODA. But he did not address what we will no longer be able to do—which is the point of this debate.

During the debate many noble Lords rightly paid tribute to Lord Judd. He was widely admired and respected. In the Commons, we overlapped by literally a few days—I was elected in a by-election just before the 1979 general election—but a friend put me in touch with him as someone whose brains I should pick. It was a privilege to meet him and subsequently, during my time in your Lordships' House, we frequently found ourselves on the same side of the argument—as we would have been today. All sides of the House have rightly remembered him today with respect and affection.

Anyone who doubts the purpose or point of your Lordships' House should read today's debate. I thought that the arguments deployed, from wherever they came, were arguments that need to be addressed over the long term in the way we think about our development aid programmes. I hope that the *Hansard* report of the debate will be circulated widely to people who either disparage or do not understand the point of your Lordships' House.

It is sometimes said that politics is the religion of priorities. In this instance, we have chosen the wrong priorities; we have made the wrong choice. We cannot say that we will be a force for good in the world—which is what I want this country to be—and then take this kind of decision.

These are just some of the headlines from the debate. Noble Lords have succinctly said things like: "This cut shames our country"; "There has been no risk assessment"; "It has been dog-whistle politics"; "We need to be more transparent"; "We can't turn it on and turn it off"; "It's a very serious mistake"; "These are deeply misguided proposals"; "We should be leading the world"; "War zones are poor zones" and "It's particularly short-sighted and politically indefensible". Another Peer said, "Sustainable development is in everyone's interest." We are told to be a "science superpower" and a "superpower in soft power" but these cuts will threaten our ability to influence either. Of course, we were also reminded of what the Minister himself said in a previous incarnation: that foreign aid benefits us all.

[Lord Alton of Liverpool]

We have a clear legal obligation. The noble and learned Lord, Lord Garnier, the noble Lord, Lord Purvis, and many others made that clear during the course of the debate. I did not feel that we had an answer from the noble Lord, Lord Goldsmith, to that central question. I hope that a letter will be sent following the debate to those who participated, setting out the Government's response on the legality and constitutionality of the decision that has been taken. Even though the Minister has tried to address a lot of the remarks that have been made, I hope he will not feel that is the end of this process. Prorogation is about to be on us, but I hope that he and his officials will sit and read *Hansard*, and respond to that central question and others that have not been answered.

There is a story about two Pre-Raphaelite painters, Rossetti and Morris. Whenever Rossetti saw someone in need, he would pour out everything in his pockets, walk away and never think about that person again. Morris, on the other hand, never gave a penny to anyone, but he said that he would work for a world in which there would be no more need. One was all heart and the other all head. In our debate today, we have heard a combination of those things. Martin Luther King put it well when he said:

> "One day we will learn that the heart can never be totally right if the head is totally wrong. Only through the bringing together of head and heart, intelligence and goodness, shall man rise to a fulfilment of his true nature."

Being a force for good, combining heart with head, surely lies at the heart of what we have been debating. I renew my thanks to everyone who has taken part in this excellent debate and I hope we will not walk away from this Room and forget the commitments the country has rightly entered into and which it must persist with. I thank all who have participated.

Motion agreed.

The Deputy Chairman of Committees (Baroness Finlay of Llandaff) (CB): My Lords, the Grand Committee stands adjourned until 5.35 pm. I remind Members to sanitise their desks and chairs before leaving the Room.

5.21 pm

Sitting suspended.

Arrangement of Business

Announcement

5.35 pm

The Deputy Chairman of Committees (Lord Faulkner of Worcester) (Lab): My Lords, the hybrid Grand Committee will now resume. Some Members are here in person and others are participating remotely, but all Members will be treated equally. I ask Members in the Room to respect social distancing. If the capacity of the Committee Room is exceeded or other safety requirements are breached, I will immediately adjourn the Committee. If there is a Division in the House, the Committee will adjourn for five minutes. The time limit is one and a half hours.

Biodiversity

Motion to Take Note

5.35 pm

Moved by ***Baroness Boycott***

That the Grand Committee takes note of the economic value of biodiversity and the report *The Economics of Biodiversity: The Dasgupta Review,* published on 2 February.

Baroness Boycott (CB): My Lords, I thank my colleagues on the Cross-Benches for choosing this debate. I am delighted. It means that many others are as concerned about this issue as I am. Sadly, we live in a society that respects wealth more than issues of contentment and well-being, so much of which is provided by the world around us: our air, clean water, abundant oceans, the minerals from the earth, out of which we make more or less everything we have, and the fertility of the soil, which grows all our food and, indeed, everything else. This is provided entirely for free and is taken entirely for granted, but it is essential for life as we know it on earth. It is often quiet, silent and completely invisible to the naked human eye.

The Dasgupta report was commissioned by the Treasury, which is why it is so important. There is nothing fluffy or sentimental in it. It is not about Easter bunnies; it is about money. For the first time, we are putting a value on nature and asking the hard, tough questions about what natural services we have taken for granted for so long and for free.

Since I was born, just about 70 years ago, the world has changed beyond recognition. The number of people in poverty has reduced from 60% to 10% while populations have exploded. Life expectancy has increased. I do not mourn that, but I mourn the fact that this progress has been at the expense of the world around us. If we are to think of nature and progress as assets, we paid for progress by taking an overdraft out with nature, and we are almost at bankruptcy. Economists often say that we need to live within our means, and this is definitely the case with our biosphere. There is only one. You cannot order another online.

Globally, the pandemic has devastated economies and lives. Its cause was our faulty interaction with nature. Some 96% of all mammals on earth are now either us or the animals we chose to eat—60 billion of them fretting in feedlots and cages, fed on food grown on monocultures. It is not a good system in any way. Some 30% of the world is still hungry, 30% is getting fat and 30% of all the food grown is wasted. In 2019, the global assessment report on biodiversity concluded that 25% of species in animal and plant groups are threatened with extinction in the next few decades and more than 85% of global wetlands, which store huge amounts of carbon, have been lost.

Professor Dasgupta estimated that as a planet we spend about $500 billion a year on environmentally damaging subsidies. He also acknowledges that this is probably an underestimate. In contrast, subsidies considered to be biodiversity positive total just $890 million a year and subsidies considered beneficial stand at just €2.6 billion. If we include other public finance expenditure

associated with the conservation of biodiversity, it gets us to just under $68 billion, so, even at a conservative estimate, environmentally damaging subsidies are dwarfing the protection of the environment at a rate of 7.5:1. We are losing this battle. We can still win the war, but we need to act now.

What are the hidden costs? Let me give the Committee a couple of vivid examples. The first has always stuck in my mind. It is a picture of a vast Chinese apple orchard where the workers are laboriously brushing fluffy paint brushes across apple blossoms to pollenate them. They are doing this because they have managed to kill all the bees by the increasing use of pesticides.

In India, which we see so much of right now, vultures used to keep the streets clean, but they have fallen foul of the anti-inflammatory drugs injected into cattle and buffalo. Now, when you drive through villages, there are piles of rubbish; there is more illness. At the towers of silence, where the Parsis bury their dead—they used to have their bodies picked to pieces by the vultures—they have actually had to install solar panels to shrivel and desiccate the corpses.

Closer to home, our vast fields of wheat and cereal crops grow in endless acres. It might look good, but what happens when you smell or listen? You will hear nothing—no birds and no insects—and there will probably be no trees. In short, what you are looking at is a factory—one loaded with chemicals to enable the crops to grow as fast as possible, and in the process destroying the soil beneath them. As that soil weakens, denied the chance to form new life forms in its natural cycle because of the deep ploughing and intensive farming, more money needs to be spent on chemicals to make those crops grow. It is a vicious cycle.

We have always thought that we can do better than nature, that human ingenuity could overcome shortfalls, and that we could bust through the natural limits imposed by nature's constraints. In the process, we never asked the simple question: "What does nature do for us?" Now is the time for that question. Now is the time when we need to understand that we live in a world which is brilliantly organised and interconnected, full of different life forms which, together, enable species—including us—to flourish. From the act of photosynthesis, which combines sunlight, carbon and water to create the plants we live on, everything—until now—has had a place in this complexity, doing its bit for the community of life. Now we are literally pulling it apart, believing that it is, for instance, more productive to tear down a rainforest and plant a monocrop to feed ourselves. The results are clear: fires, floods, changing rainfall and temperature, and it is getting worse.

The future does not need to be like this. The Government have committed to this being the first generation to leave nature in a better condition, but we need to have policies in place to make this a reality. We could live in a country that does not use chemicals or practice monoculture farming, and which has adopted agroecology and agroforestry. It could be a country with nature corridors between wild areas, where the flora and fauna we have relied on could flourish. We could have communities with local food networks, with clean rivers we could swim in and beaches we could be proud of. Very importantly, it could be a country where children are educated as to the power of nature and the environment, and where citizens are empowered to understand these issues and make the right choices, and, in turn, purchase products safe in the knowledge that no orangutans have been hurt or habitats compromised.

The Treasury has posed three big questions: what are the economic benefits of biodiversity; what are the economic costs when biodiversity is lost; and what practical actions can be taken to enhance economic prosperity and biodiversity. Last week, the noble Lord, Lord Goldsmith of Richmond Park, said in a debate on biodiversity:

> "Ultimately all economic activity is derived from nature."

I could not agree more. He went on to say that he was,

> "absolutely convinced that this can be the year that change begins in earnest."—[*Official Report*, 22/4/2021; col. GC 416.]

I hope that this is the case, but if we do not accept this report's recommendations and we continue running roughshod over nature, this will not be the year of change. Nothing other than a decisive steer off our current trajectory will do the trick. To take this crisis seriously, the Government need to adopt the recommendations of this report to ensure that what the Stern review did for climate change and energy, the *Dasgupta Review* can do for biodiversity loss.

What can we do? It is a question that I often ask myself: how best can we affect change? Globally, the problems are immense, but that is not to say that there are not huge improvements that must be made here. For many reasons, countries still look to the UK as a bellwether or indicator, so implementing the best policy here at home will have ramifications abroad. We did it with the Climate Change Act and we can do it with this. We must send out a clear message through our foreign policy and our trade policy, and through our financial markets, to lead the world by valuing the economics of biodiversity.

When the Environment Bill comes to this place next Session, we must work together to include a robust and legally binding framework that will ensure that we keep to the targets. Some are calling this a state of nature target. We need to push other countries to do the same. On this, the Minister said last week:

> "We are pressing hard for the highest possible ambition and, crucially, we are pushing for inclusion of mechanisms to hold Governments to the promises they make, which currently is lacking."—[*Official Report*, 22/4/2021; col. GC 414.]

He is, of course, completely correct, but so far we lack this mechanism, and we cannot ask others to do something we will not do ourselves.

With the competing priorities of government it can sometimes be easy to put something off, if it is not absolutely immediate, but it falls to all of us to hold the Government's feet to the fire to make the case for policies to stop the twin threats of climate change and biodiversity loss. If the Government are serious, then implementing the report's contents is too good an opportunity to pass up. This is about saving not just the planet but humans' place on it. It is 100% in our self-interest to mobilise everything at our disposal to stop what will otherwise be inevitable.

[Baroness Boycott]

I say to finance ministries around the world: the future is genuinely in your hands. Only you can charge other ministries and create domestic budget oversight bodies ensuring environmental compatibility with spending. If we are to have truly sustainable economic growth and development, or at least a good life, then we have to understand that our long-term prosperity relies on balancing our demands on the planet. We have to account for what our impacts on nature really cost. It is a balance sheet—one in which economics and ecology must stand side by side. Nature is not separate from the economy, a drag on growth or an expensive, luxurious distraction. It is not, as I said, about fluffy rabbits or nice animals on TV. It is, essentially, our economy; it is where we get everything from.

This is such a crucial year. We have the G7 and COP 26 ahead of us, as well as the CBD meeting. It would be a waste and a mistake to confine climate change to COP and biodiversity to the CBD. They both come from the same source: our failure to understand the interconnected nature of our world. They must be solved together. This is the year that we have the chance; please let us seize it.

5.46 pm

Baroness Young of Old Scone (Lab) [V]: My Lords, I declare an interest as chairman of the Woodland Trust and as patron or vice-president of several environmental organisations. As the noble Baroness, Lady Boycott, outlined, the *Dasgupta Review* makes it absolutely clear that if we continue to destroy nature at the rate we are, not only will we risk the survival of all species but there will be catastrophic consequences for our economy, our well-being and our very survival. As an example, the Woodland Trust's recent report on the state of the UK's woods and trees emphasised the critical role of our native woods and trees in supporting our future prosperity, including in locking up carbon, improving our health and well-being, and reducing pollution and flooding.

It is good to see the Government championing the review internationally. This must be backed by an ambitious approach to its implementation domestically. We have literally a once-in-a-century opportunity post Covid to rebuild the ecological foundations of our wealth and well-being. The Treasury will have a key role in embedding the Dasgupta principles into the UK economic framework for local and national government, and for business. Government incentives, regulation and guidance will be important too. Measurability will be key: we need a clear framework for measuring nature, as clear as we have for measuring climate change and carbon reduction. To prevent further damage to our already precarious ecosystems, we need legally binding targets in the delayed Environment Bill to halt—and to begin to reverse—declines in nature by 2030.

Lastly, as the noble Baroness, Lady Boycott, said, let us learn from the hugely influential Stern report on the economics of climate change. Nicholas Stern—the noble Lord, Lord Stern—worked his socks off to see his report implemented nationally and internationally. Whatever he did right, let us see a similar sustained effort for the Dasgupta report.

5.48 pm

Baroness Parminter (LD) [V]: My Lords, I thank the noble Baroness, Lady Boycott, for her powerful opening speech, articulating the values of this report at a time when the evidence shows that nature's resilience is being severely eroded, yet our economy, livelihoods and well-being all rely on nature. The Government need to use the opportunities they have this year at the G7, CBD COP 15 and COP 26 to showcase the report's findings and their framework for nature. To do that credibly, they must respond formally, before the start of these events, and show how they are using all opportunities to deliver, despite the National Audit Office's report that there is still a long way to go before we can have confidence that the Government have the right framework to deliver on the aspirations in their 25-year environment plan.

There are a number of areas where the reality is not in step with the Government's stated ambitions. In the short time that I have, I will raise just one: the proposed exemption for Treasury Ministers from having due regard to the Government's policy statement on environmental principles. This policy statement is a key tool to drive delivery across government of the 25-year environment plan. The duty for Ministers to have regard to it does not give undue weight to the environment but just embeds consideration of the importance of policy on the environment in decision-making.

Professor Dasgupta argued for a new vocabulary to factor the value of the environment into our economy. This exemption shows that the Treasury is not even prepared to open the dictionary. If the Government were to remove it before the Environment Bill returns to Parliament, that would be a powerful symbol of business not as usual. Without that, there is little hope of embedding nature into decision-making and delivering the protection for the natural resources on which we all depend.

5.50 pm

Lord Hannan of Kingsclere (Con): My Lords, there is a scene in "The Simpsons Movie" where the dysfunctional family arrives in Alaska and is handed a wad of money, and the border guard says, "Here is $1,000. We give everyone in Alaska this, in exchange for letting us destroy the environment". It seems that that is the view a lot of people take of the tension between growth and nature—that, somehow, man is a pollutant or despoiler and that capitalism is intrinsically bad for the natural world.

When I got to visit Alaska with my children a few years later, I was very surprised to see that there had been a most extraordinary rise in biodiversity there. We saw virtually every one of the characteristic animals. We saw sea otters, which were almost extinct at the beginning of the 20th century and now cutely hold hands as they float on every surface. We also saw whales, whose recovery has been one of the untold stories of the past 30 years, bears and eagles—the works. This is not only true in Alaska. When you have a country where there is sufficient economic progress that people want to shoot with cameras rather than guns, it creates a space.

It is an observable fact that you are breathing cleaner air and drinking cleaner water in London, as compared to Lahore, because it is a wealthier place. I do not think I had seen a red kite in the wild before my 30s; now, they are as common as eagles in Alaska—I was about to say, "as pigeons". I had never seen an otter in the wild until five years ago; I would have doubted my eyes, except that you can hardly mistake an otter for anything else. The Thames was biologically dead in the 50s; now, you can fish salmon in it.

The point I am making is that economic growth creates a space for environmental protection—this is a luxury that poor and developing countries do not have. My noble friend Lord Ridley has a nice phrase, which is that 50 years ago, wolves, tigers and lions were all endangered; now, wolves have rebounded, tigers are flatlining and lions remain endangered. Why? Because wolves live in rich countries, tigers live in middle-income ones and lions live in poor ones.

Let me close by mentioning one technology that is not plugged in the *Dasgupta Review*. It talks about using GM and so on as a way of freeing up more space, but I note the ability we now have to fabricate meat—not meat substitute but actual cells that are grown, as it were, so that you can grow the chicken breast without the head, feathers, feet and all the rest of it. Think of how that will free up those ghost acres and barren landscapes of which the noble Baroness, Lady Boycott, spoke. Think of how that will free up the space that we use for feed growth and animals. Is it not a wonder that technology will continue to deliver these marvels to an ungrateful world?

5.53 pm

Lord Curry of Kirkharle (CB) [V]: My Lords, I thank the noble Baroness, Lady Boycott, for sponsoring this debate and for her very persuasive and articulate opening comments. My interests are as recorded in the register, but, in particular, as far as this debate is concerned, I note that I chair Cawood Scientific, an analytical company whose range includes soil testing et cetera.

The *Dasgupta Review* is extremely helpful, and I fully endorse its conclusions on the seriousness of the issue of biodiversity loss and the decline of ecosystems. We must take action. The report calls for "transformative change" and suggests

"insisting that financiers invest our money sustainably, that firms disclose environmental conditions along their supply chains … and even boycotting products that do not meet standards."

This assumes that, in time, the market will influence behaviour and enable pull-through. However, at present, this is not the case; the concept of natural capital accounting is in its infancy and not developed. It will take time for market pull-through.

Until such time, the Government have only two key tools at their disposal to address the concerns identified in the report: legislation and incentivisation. As stated in the report, this is a global challenge that will be addressed only if local action is taken on the ground—literally, on the ground. What legislation might the Government be considering through the office for environmental protection within the Environment Bill? What incentives might be available through the environmental land management scheme for farmers and growers? Will this require an environmental audit for each farm to target the actions required to enhance natural capital and biodiversity gain? It would be helpful if the Minister could consider these questions.

The Deputy Chairman of Committees (Lord Faulkner of Worcester) (Lab): The right reverend Prelate the Bishop of St Albans has withdrawn from the debate, so I call the noble Lord, Lord Sikka.

5.55 pm

Lord Sikka (Lab) [V]: My Lords, the *Dasgupta Review* reminds us that the trappings of neoliberal capitalism, its unrestrained pursuit of growth, consumption, exploitation and accumulation of private wealth, have brought humanity to the edge of disaster. Paradoxically, the review seeks a solution to the crisis of nature and biodiversity within the framework of neoliberal capitalism, which is unlikely to make a significant difference. For example, it emphasises the need to correct what it calls "pricing distortions" because, currently

"most of Nature's worth to society—its accounting prices—are not reflected in market prices".

It recommends that natural capital be brought into national accounting mechanisms; that is, that the externality of nature be expressed in terms of money. One consequence of this will be to treat nature as a tradeable commodity and to unleash a different kind of crisis. The use of terms such as "capital" is problematical, as it signifies something which is to be exploited and privately appropriated.

There is also a fundamental error in the review. Just because something is priced does not mean that it will not be exploited, at least by those who can afford to pay. Does financialisation deliver the desired outcomes? Carbon pricing generates a lot of revenues, but it has not significantly reduced global resource consumption or emissions. To save humanity and all living things, we need a transformation of education and society. Equitable distribution of income and wealth and stakeholder capitalism are the first necessary stepping stones towards that goal. I hope that the Government will embrace them.

5.58 pm

Baroness Jones of Moulsecoomb (GP) [V]: I congratulate the noble Baroness, Lady Boycott, on getting this debate and on her excellent introduction. When I first saw the title of the report, *The Economics of Biodiversity*, I was a little conflicted, because there is the overwhelming sense that our economic system has always hugely undervalued the natural world, which has led to huge damage and very poor decision-making. The second feeling is one of concern that, by looking at the natural world through the lens of economics, we risk repeating exactly the same mistakes that got us into this mess. The answer is not more banking, more financial engineering and more big business.

I was elated to see that the *Dasgupta Review* recognised exactly that; in fact, the report almost reads like a Green Party publication in its criticisms of the status quo, so much so that the Government have glossed

[Baroness Jones of Moulsecoomb]
over some of its biggest sections. In particular, they seem completely to have ignored Dasgupta's criticism of gross national product as an economic measure:

"The contemporary practice of using Gross Domestic Product (GDP) to judge economic performance is based on a faulty application of economics."

It goes on to say that GDP ignores

"the degradation of the natural environment"

and

"is wholly unsuitable for appraising investment projects and identifying sustainable development."

Perhaps even more importantly, it states that

"in recent decades eroding natural capital has been precisely the means the world economy has deployed for enjoying what is routinely celebrated as 'economic growth'".

This has been obvious to Greens for decades; it is one of their foundational principles that sets green philosophy apart from other political parties and movements. Politicians have to end their obsession with economic growth and understand that we are on a finite planet with finite resources.

My question and challenge to the Minister is: what are the Government doing to replace GDP with proper economic measures that do not make trashing our planet look like economic success?

6 pm

Baroness Miller of Chilthorne Domer (LD) [V]: My Lords, I congratulate the noble Baroness, Lady Boycott, on securing this debate. I want to touch on the main factor that is driving the world's ecological footprint, which is consumption. The debacle over who paid for the Prime Minister's Downing Street refurbishment is serious because of where the money came from and because of where the truth lies, but it is really serious because, if we are to address the issues in this excellent report, we must all address our consumption habits. The Prime Minister refurbishing a perfectly decent living space that was recently redecorated and had pretty much new furniture is setting a very poor example. We need to address thoughtless and wanton consumption. Professor Dasgupta's report states that

"consumption in high income countries … is projected to remain the key factor in driving the world's ecological footprint"

The section of the report on supply-chain innovation and trade lays out how we can create systems to ensure that, when we consume, we do so more responsibly. Part 3 of the Environment Bill, which we will have the opportunity to amend in the Lords, talks about producer responsibility. Given Professor Dasgupta's report, I believe it needs to have something on consumer responsibility as well. I hope that we can add that when the Bill comes to the Lords.

6.02 pm

The Duke of Montrose (Con) [V]: My Lords, this report is a bold assembly of experience and data in a worldwide context. The fact that we live and breathe means that we all have an interest to declare. I will declare a further interest in the subject of this report as our family runs a livestock farm in Scotland. Along with that, for 40 years I owned a wetland national nature reserve designated for its wild flower and botanical interests. At the last count, our enthusiastic bird-watchers had recorded more than 200 species within the boundaries, so at this level at least I have some acquaintance with biodiversity.

However, this report presents what are likely to become the criteria on which any government rural support will be based, and we still have to see whether its proposals will make any effort that is required worth while. Section 22 of the abridged report discusses ways to get natural capital recognised in accounting practice, as the noble Lord, Lord Curry, said. In the sale of retail food, the firm's reputation matters. I know that one supermarket is promising that by 2030 all its food will be net-zero carbon. Many farmers are now considering how close they can get to net-zero production. One result may be that a large part of rural carbon sequestration that the Government are counting on may be used to offset elements of food production. Fundamentally, the question still remains whether biodiversity can best be achieved through extensive rewilding or intense ecological management.

6.04 pm

Baroness Wheatcroft (CB) [V]: My Lords, I thank my noble friend Lady Boycott for securing this important debate and introducing it so eloquently. The *Dasgupta Review* makes eminently good sense, but I fear that, like so many well-intentioned reports, its very commissioning will be considered an end in itself. After a little debate it will be filed under the heading "too difficult". Trying to persuade a country that it needs to change its attitude to what constitutes wealth is no easy task.

The issue of climate change has been one concerning environmentalists for decades. Only now, when there is no escaping the threat it poses, genuine action is being taken. For years it was embraced in name only by companies in search of enhanced image without undertaking any real change.

The broader biodiversity issue is destined for similar treatment. Take, for instance, the World Business Council for Sustainable Development. It sounds very worthy. More than 200 companies are proud to be members, but how committed are they to the ideas of genuine sustainability? Forgive my cynicism, but when the three worst companies on the offenders list compiled every year by Break Free From Plastic—Coca Cola, Pepsi and Nestlé, which have held those positions for the past three years—can proudly proclaim their membership of the World Business Council for Sustainable Development, it is hard to believe that change will come about without firm action from government.

We now insist that companies report on carbon emissions. If this report is to be effective, we have to find a way of forcing companies to report on their use of natural capital. It will not be easy, but will the Minister commit to trying to work with the Financial Reporting Council and its successor to find a way that this might be done?

The Deputy Chairman of Committees (Lord Faulkner of Worcester) (Lab): The noble Lord, Lord Desai, has withdrawn from the debate, so I call the noble Lord, Lord Carrington.

6.06 pm

Lord Carrington (CB) [V]: My Lords, I declare my interests as set out in the register. This report educates the debate on economic growth, the environment and climate change. Remedial measures are being announced that may not have been thoroughly costed and cannot consider future developments in science and technology. Science in this area is recent, complex and often controversial. This is not to excuse or argue for delay, but to underline priorities and risks.

First, the unarguable point is that vast resources are required for most actions to mitigate and resolve the issues. The least costly and most effective measure that can be taken is the use of the education system. If the population develops best practice, the cost of remedial measures will fall. Could the Minister reassure us that the education system is central to the solution?

Secondly, in farming, overreaction to threats and overoptimism on benefits could lead to unforeseen food shortages; nature is capricious. The reduced harvest of 2020 experienced by most farmers could well be repeated in 2021, with the recurrence of the same weather conditions. The Government's policies are likely to cause a lot of farmland to come out of food production. Consider the political consequences of food shortages and price rises.

Thirdly, has anyone really thought through the funding and maintenance aspects of the Government's tree strategy, which is so important to biodiversity? Growers need a current commercial return.

Climate change must be urgently addressed and biodiversity is central. Could the Minister confirm that the issue is not about who shouts the loudest, but who has done their quiet homework on the affordability and consequences of what is involved?

6.09 pm

Lord Gadhia (Non-Afl) [V]: My Lords, as well as being one of my favourite lecturers at university, Professor Sir Partha Dasgupta has done all of us a great service through his seminal report. By framing the economics of biodiversity around nature as an essential asset, he triggers a whole series of logical follow-on questions. How do we properly account for the depletion of this asset? How do we manage it and replenish it? What is the portfolio effect from diversification? As a finance geek, I find these analogies both comforting in their conceptual familiarity but also perceptive in identifying the consequences of our actions.

However, my interest in nature extends well beyond economics and finance to the world of philanthropic impact. As noted in my register of interests, I have the honour of serving on the board of the British Asian Trust, a charitable foundation established by His Royal Highness the Prince of Wales. We recently merged with Elephant Family, a respected conservation charity providing a wider canvas across south Asia. This megadiverse region has revived several important species from the brink of extinction.

I am therefore pleased to inform your Lordships that, in just under three weeks' time, we will bring alive India's rich biodiversity through a high-profile campaign called CoExistence. More than 100 life-sized elephants will transform the Royal Parks and other locations across London. These elephants are handmade from lantana camara, an invasive weed whose removal from protected areas benefits wildlife by leaving more space to roam. Each work of art is a sight to behold.

The aim of this campaign is to highlight how India's indigenous communities live alongside wild elephants in denser populations than anywhere else in the world, competing for food and space. Our objective is to build a network of corridors supporting human-wildlife coexistence. This campaign provides a small but practical way in which the theoretical underpinnings of Professor Dasgupta's report can be brought to life.

The Deputy Chairman of Committees (Lord Faulkner of Worcester) (Lab): The noble Lord, Lord Bradshaw, is not on the call so I call the noble Baroness, Lady McIntosh of Pickering.

6.11 pm

Baroness McIntosh of Pickering (Con): I add my congratulations to the noble Baroness, Lady Boycott, on securing this debate and introducing it so eloquently, which is greatly appreciated. I refer to my interests in the register.

I quote David Attenborough in the foreword to the report:

> "The Dasgupta Review at last puts biodiversity at its core and provides the compass that we urgently need. In doing so, it shows us how, by bringing economics and ecology together, we can help save the natural world at what may be the last minute—and in doing so, save ourselves."

I think this is the first time that, in reality, we are valuing natural capital and putting a price on nature. If that really is the case, we should recognise the role that farmers play in protecting our ecosystems and in which case, farmers should in fact be the wealthiest folk in the land. When she comes to sum up the debate, will the Minister tell us how farmers will benefit under the Agriculture Act and the forthcoming Environment Bill if they do not own or possess the natural capital but take the economic risk, which is particularly the case for tenant farmers?

What will the particular role of the Treasury be in delivering on biodiversity in the Environment Bill, as it will fall to Defra to implement its provisions and, as I mentioned earlier, those of the Agriculture Act, which is already on the statute book? I hope that my noble friend and her colleagues at the Treasury will take an active role in delivering for natural capital, protecting our ecosystems and recognising the role that the farming community and farmers will play in this regard.

The Deputy Chairman of Committees (Lord Faulkner of Worcester) (Lab): The noble Baroness, Lady Ritchie of Downpatrick, has withdrawn so I call the noble Earl, Lord Devon.

6.13 pm

The Earl of Devon (CB) [V]: I thank the noble Baroness, Lady Boycott, for this crucial debate and Professor Dasgupta for his decades of ground-breaking

[The Earl of Devon]
work, to which this is a fitting culmination. I note my interests as a graduate of St John's College, an environmental land manager, a lawyer with clients in this field and a citizen investor who is passionate about biodiversity.

Professor Dasgupta highlights the need for systemic change to combat our rampant assault on biodiversity, with a focus on education—[*Inaudible*]—our affection for nature into a learned appreciation of it through mandatory nature studies and better access to nature in all her glorious forms. He says that

"we should all in part be naturalists."

Will the Government add nature studies to the core national curriculum? Will they also support safe access to the countryside, under ELMS or otherwise, that does not in itself damage biodiversity? Will they consider food and product labelling to identify natural capital costs, allowing consumers to read about the rainforest degradation inherent in every bite of a Brazilian soybean burger?

On finance, how will the Government amend their economic measures to account for natural capital? New Zealand recently adopted a well-being budget. This year, when we will host COP 26, will the UK adopt a biodiversity budget, or at least recognise the consumption of natural capital in all its financial models?

Core to Professor Dasgupta's message is the need to price biodiversity. He recommends that the ONS establishes an inclusive value to counter the short-term pull of financial returns. As we establish ELMS, will the Government do that? If they fail to do so, the dominant price will be that of carbon, and we may lose yet more biodiversity in our worthy pursuit of carbon sequestration. What a tragedy it will be if the Government's ambitious tree strategy is satisfied by desolate hectares of coniferous monoculture—a biodiversity wasteland.

6.15 pm

Lord Inglewood (Non-Afl) [V]: My Lords, I join noble Lords in congratulating the noble Baroness on obtaining this debate and point to my declarations in the register of interests.

If the conclusions of the Dasgupta report about biodiversity are right—I believe that, in general, they are—they are equally applicable in a range of other activities, including climate change and another of my general interests, the preservation of the historic environment, in which I have a specific registered interest. This report is a severe critique of the way we are now and the way we do things these days. The report's conclusions rest on the simple but far from new proposition that we are custodians of the world we live in, as opposed to us being its master and it our slave—a concept that, in our tradition, goes back to a misreading of the first chapter of Genesis. You do not have to be a fully-fledged adherent to James Lovelock's Gaia theory to recognise the interdependence of creation.

In my view, the fundamental problem is the troika of greed, its better-mannered twin brother, profit maximisation, and envy, which are exhibited by individuals, businesses and Governments wherever you look. Everything is measured in monetary currency. Other values are converted into monetary values, which invariably lose worth in the exchange. The evidence behind the Dasgupta report shows that this approach is failing in a manner of ways. This Government—indeed, all responsible Governments—recognise this in principle, which is a good start. I have no doubt that the Minister will endorse this in her concluding remarks; I would be horrified if she did not. However, as she will know, that is not the real response, which is to be seen in deeds, not words, and may well include involvement in activities far beyond our shores—as occurred in the Second World War, for example. It is how the Government deal with this as a leader, not a follower. It is not what they say on the Floor of the House that matters, but what they do in the real world.

6.18 pm

Baroness Walmsley (LD) [V]: My Lords, a character in an old radio programme had this catchphrase: "The answer lies in the soil"—although he said it in a strong West Country accent, which I could not possibly copy. The fact is that he was right. In his remarkable report, Professor Dasgupta emphasises the economic value of the soil as an ecosystem fundamental to life.

The problem is that, although we know some of the things that endanger soil, we know very little about how it works, although the farmers and gardeners among your Lordships will know a good deal about the fertility of their own soil. Despite the fact that we know a lot about terrestrial mammals and higher plants, such as how many have become extinct and how many are in danger of disappearing, we know very little about the conservation status of the billions of fungi, bacteria and protozoa in the soil.

Despite our ignorance of how this complex life-supporting system works, we know what the threats are: overly intensive farming without putting anything back; excessive inorganic fertilisers destroying the finely balanced soil chemistry; wind erosion; monoculture; and covering it with concrete or tarmac. Flooding carries soils away, yet we know that planting trees can help to prevent this. The flooding we have suffered in the UK and around the world over recent decades has been caused by climate change, but it is less well known that the microorganisms that make up the living element of soil are also threatened by climate change. Healthy soil is the world's largest carbon sink, but soil could shift to become a net emitter of carbon as global warming increases respiration by soil organisms.

Professor Dasgupta emphasised that

"it is less costly to conserve Nature than it is to restore it".

Can the Minister tell us whether there has been an assessment of the economic value of our soil and the threats to it, and whether there is a strategy to conserve it?

6.20 pm

Lord Lucas (Con) [V]: My Lords, I join my noble friend Lord Carrington and the noble Earl, Lord Devon, in emphasising education, which is where Professor Dasgupta ends his report. Education is the foundation for all that we are required to do. We have been asked to make some very substantial changes in the way that we live and run the world. To do that, we are going to

need a great deal of common understanding and consent. To achieve that, we are going to need an education system that equips our children with an understanding of nature and a real familiarity with it, so that they value it and it is part of their lives. They need to have an inherent understanding of why they are being asked to make room for it and the value of sharing their lives with it.

I know that this is not my noble friend the Minister's responsibility but I really hope that she will find a way to get this message through to the Department for Education: there is something you can do here. You have in front of you a natural history GCSE, put together by OCR and very widely supported; we would like to see that starting in schools in September 2022. You need to do something now to let it through. I know that this is a hard time, and that this is not the easiest moment to focus on starting a new GCSE, but we all need to put our weight behind regenerating the environment. You, the Department for Education, have your bit to do, too.

A related suggestion that I would make to the same department, but via Defra, is that Defra should put some serious support behind the Queen's Green Canopy. That is intended to involve every school in the country in celebrating the Queen's Platinum Jubilee by planting trees and hedges. Schools are in no shape to do this well without finance or support. Put some money behind it and you will get every school in the country responding. Without money, it gets very difficult to do anything significant.

6.23 pm

Lord Teverson (LD): My Lords, as usual, I declare my interest in this area as chair of the Cornwall and Isles of Scilly Local Nature Partnership. In terms of some of the related climate finance, I also declare my role as a trustee of the Green Purposes Company, which holds a green share in the Green Investment Bank.

I particularly thank the noble Baroness, Lady Boycott, for having brought this debate to Grand Committee. It is great that we are actually giving this subject the level of attention in the House that it deserves. Her reminder that we have only one biosphere is particularly important. I liked—or disliked—her reference to vultures. I remember my first visit to south Asia in the early 1980s. You knew you were coming to a settlement well ahead from the fact that large black vultures circled above these settlements. When I visited there more recently, they were almost completely absent. She is right to show that as an example of a loss of biodiversity, but also to show its implications throughout human society.

I welcome the fact that the Treasury is involved in this issue and that it took the initiative to have Professor Dasgupta produce this report. We as parliamentarians all know that the Treasury actually does stuff and decides stuff, which is not true of many of the departments that we sometimes talk about and deal with. This is a serious subject in a serious department of government.

A number of things are absolutely clear from the *Dasgupta Report* and this debate. First, biodiversity is a real problem: it is a big issue, and we are failing in that area. The statistics are not just bad but continuing to get worse. In the period from 1970, not just globally but equally in the UK, there has been a 40% fall in a number of key indicators of biodiversity, but they have been even worse since 1990.

Some 10 years ago, there was the UN conference on biodiversity in Japan; the 20 Aichi targets were laid down there, and globally we have met none of them. The Government suggest that we have met six of them in the UK, but NGOs suggest that it is only one. My noble friend Lady Parminter mentioned the National Audit Office report, which was very condemning—regrettably—about the progress in relation to the 25-year environment plan, which we all welcome but want implemented and to be successful.

The other thing that we have all now recognised is that our national accounting does not work in the way that we need it to. As the report says so well, it takes account of produced—and perhaps human—capital to some degree, but not natural capital. GDP, described as a "flow" of economic activity, does not include depreciation, as I understand it from the P&L accounts that I look at. This cannot work well for us into the future; it is important but needs to be supplemented.

This issue of biodiversity is complex, and we should not ever run away from that. It is not an easy issue to measure or solve. As the noble Baroness, Lady Young of Old Scone, mentioned, we need metrics, but those are not easy here. Climate change is so much easier in terms of tracking what is happening in relation to greenhouse gas emissions or the proportion of CO in the atmosphere—that is not the case for biodiversity. As Professor Dasgupta himself says, the economics of biodiversity is a hard subject, and we should not underestimate that.

We have also learned that we have the twin emergencies of not just biodiversity but climate change. Although there are clear areas of common interest, such as nature-based solutions and carbon sequestration, we know that we cannot solve just one of these; we have to solve both. We cannot have one without the other; both are fundamental to the survival of not just us but our planet in the way that we know it.

Contentiously, Professor Dasgupta mentions food production as being one of the biggest problems. That is the case, and it is also true in the United Kingdom, regrettably. I do not blame farmers for this; I blame the way that they have been incentivised in the past. Indeed, the noble Lord, Lord Curry, mentioned ELMS, which I hope will reorient that sufficiently—it is a big ask. Of course, my noble friend Lady Walmsley mentioned the soil—again, ELMS will be important in making sure that we give that greater attention.

As my noble friend Lady Miller mentioned, the other area is that we are consuming more than our planet can provide; that is very clear in this report. We consume 1.6 planets' worth, in comparison to what we have available to us, and we have to look at that. We are embedded in nature, and we have to make sure that our consumption, as well as the way that we treat nature, is managed.

As such, we have no easy answers; we have only glimmers of the solution. A number of those are mentioned in the *Dasgupta Report*, but we do not, by any means, have a comprehensive answer yet about

[Lord Teverson]
how to deliver in relation to biodiversity challenges. However, one thing that comes out to me from this is that we have an emergency. We need look no further than the World Economic Forum in Davos, which sees biodiversity as one of the top five challenges to the global economy into the future.

My questions to the Minister are as follows. First, on finance and coming back to the way capitalism can work, as mentioned by the noble Lord, Lord Hannan, we found good ways that capitalism and green finance can work for climate change and renewable energy. Does the Minister see such ways forward for biodiversity? There is much work being done—the Green Finance Institute, which the Government support, is looking at that—but do we see answers on that in the near future?

Secondly, will the Government continue to look at alternative ways of accounting? It is not about getting rid of GDP but about using additional methods, as Professor Dasgupta mentioned. As he said,

"nations need to adopt a system of … accounts that records an inclusive measure of their wealth."

That is: the stock of the economy's assets, of which nature is one. I read a book recently by Kate Raworth, *Doughnut Economics*, as many others will have done. Is the Treasury looking at those areas as well? Will it discuss this report with other countries? In my own area of Cornwall, we have the G7 happening in June. Will Professor Dasgupta be there with the Treasury to put forward those arguments?

Thirdly, will a Treasury Minister be at the CBD COP 15 conference in Kunming in October? I think that will be so important. Finally, will the Government have the guts and determination to declare a climate emergency?

6.31 pm

Baroness Jones of Whitchurch (Lab): My Lords, I declare an interest as a member of the South Downs National Park Authority, which is responsible for preserving biodiversity in our protected landscape. I thank the noble Baroness, Lady Boycott, for tabling this important debate and for her thoughtful and incisive contribution.

There is no doubt that the *Dasgupta Review* is a hugely significant report. It builds on the work of the Natural Capital Committee and puts a new approach to natural assets at the heart of government, where it belongs. If the Government take it seriously, it has the potential to be a game-changer by delivering for biodiversity in the way that the Stern review put climate change centre stage; a point made by a number of noble Lords. The ball is now in the Chancellor's court and we look forward to his response with considerable interest.

As the report points out, we rely on nature to provide us with food, water and shelter. It balances our environment and climate. It provides opportunities for recreation and enhanced health and well-being, but we have been very slow to put a value on these core assets that are fundamental to life. They have been taken for granted. As a result, we have allowed them to be overexploited and degraded.

Noble Lords have pointed out that biodiversity is declining faster than at any time in human history. Extinction rates are accelerating, and nature is finding it more and more difficult to adapt and survive. The complex interrelationship between living organisms, including humans, has been massively underestimated. We are close to the tipping point, where there is no way back, with potentially catastrophic consequences for economies and for human well-being. We agree with the persuasive conclusion in the report that nature and the contribution of our natural assets need to enter economic and financial decision-making just as goods, services and skills do now. For today's debate I want to concentrate on four key issues.

First, as noble Lords have argued, the decline in biodiversity represents an emergency which now needs to be addressed urgently. There are actions which the Government can take immediately to begin to reverse the crisis. We have a once-in-a-generation opportunity to reset our priorities for nature through the Environment Bill. Does the Minister agree that we should use that Bill to set legally binding targets to reverse declines in nature by 2030? Does she agree that we should use the Bill to require meaningful baselines to be set, against which progress can be clearly monitored and reported?

Does the Minister accept that biodiversity net gain should be established as a fundamental principle applying to all government investment and infrastructure projects? Does she agree that we need a powerful and fully independent office for environmental protection, on a similar footing to the Committee on Climate Change, able to hold the Government fully to account on progress on these issues? All these things can be delivered in the next few months via the Environment Bill.

The noble Lord, Lord Goldsmith of Richmond, noted earlier this month that

"to speak with authority internationally, the UK needs to get its own house in order."

He was very frank with your Lordships' House in saying:

"That is not the case at the moment."—[*Official Report*, 13/4/21; col. 1149.]

So does the Minister agree that the steps I have outlined would give the UK greater credibility when representatives attend the Convention on Biological Diversity later this year, which will enable us to create an ambitious global response to the crisis?

Secondly, as the report points out, restoring our ecosystems not only addresses biodiversity and climate change but delivers wider economic benefits. It can also be used to create employment, which has high social benefit and quick returns. Research shows that green projects can be delivered quickly and effectively. They can have an immediate return on investment as well as creating rich and rewarding work. As we rebuild our economy after Covid, which has had a particular impact on opportunities for young people, does the Minister agree that there is a unique opportunity to be grasped? Already, other counties are creating ambitious green economic programmes. Are we now prepared to match and exceed the example shown by others by bringing forward £30 billion of capital investment in the next 18 months to support 400,000 much-needed, new, clean jobs?

Thirdly, the report makes a powerful case for resetting the UK's economic framework and how we measure economic success. If we accept the premise that our economic success and biological success are intertwined, we need to find mechanisms to reflect the importance of nature in measuring our prosperity. At its heart, we need a strategy to conserve the precious natural assets we have. As has been said, food and water are not infinite. We need to place a new value on our land and sea stocks, and not just in the context of the measures in the recent Agriculture Act and Fisheries Act. This will require a shift to sustainable patterns of consumption and production right along the supply chains at a global level.

As a high-income country, we need to take more responsibility for the demands we place on the world's ecological footprint. One example, as we have discussed, could be changing diets, ideally towards less meat consumption or at least promoting homegrown produce with a lower carbon footprint. Does the Minister agree that the Government's policy and fiscal priorities can help to embed more sustainable consumption and production patterns? What plans do they have for making this a reality? How will they ensure that future spending plans across government reflect our biodiversity goals? Will they extend the use of green taxes to embed the principle of "polluter pays" and more fully reflect the damage being done to our environment? What proposals do they have to scale up incentives for private sector investment in nature recovery initiatives?

Finally, the report makes the crucial point that citizens should demand and shape the change we seek. This debate is not just about big government and shifting capital; it is also about local knowledge and passion for nature in the community. In the UK, we are seeing a widespread awakening that nature matters and is part of our well-being. This was already taking place before the pandemic but has gathered pace over the past year. We need to ensure that local communities have a real say in how our environment is protected and utilised for the future.

This is a big report in every sense. I hope that in her response the Minister can confirm that the Chancellor is up for the challenge and intends to match Professor Dasgupta's challenge with the sort of action that could really make a difference. I look forward to her response.

6.39 pm

Baroness Penn (Con): My Lords, it is a privilege to close this debate on behalf of the Treasury and the Government. I thank noble Lords for their many insightful and constructive contributions. Perhaps unsurprisingly, there has been a significant degree of consensus—although not complete consensus—on the importance of this issue and on the action that needs to follow on from the report.

The Government's position is simple: protecting and enhancing our natural assets and the biodiversity that underpins them are crucial to achieving sustainable, resilient economies. That is why the Government commissioned the independent and globally focused *Dasgupta Review* on the economics of biodiversity. As the noble Baroness, Lady Boycott, noted, the review has particular significance as the first such review commissioned by a finance ministry.

I thank Professor Sir Partha Dasgupta for his landmark review. It makes a clear and compelling case for nature as vital for the health of our economies as well as that of our planet. The Government welcomed the publication of the review, not least as a strong example of UK thought leadership on an important environmental issue with clear but often overlooked economic implications. We are now reviewing and examining the review's findings and encouraging international partners to do the same. We will respond formally in due course. I assure noble Lords that action on many of the issues raised by the review is already under way and need not await the Government's response.

The Government have already legislated to reach net-zero carbon emissions by 2050, as we all know. Through the Environment Bill, we will deliver on our commitment to be the first generation to leave the environment in a better condition than how we found it, as set out in the 25-year environment plan. The Bill includes setting a new and ambitious domestic framework for environmental governance, embedding environmental principles in future policy-making, setting legally binding targets for environmental improvement—including on biodiversity—and strengthening environmental oversight with the new office for environmental protection scrutinising progress and enforcing compliance. The Bill also includes: measures to reduce waste, including single-use plastics; the creation of a deposit return scheme; strengthened power for locals authorities to address air quality issues; improving the sustainable management of our water resources; and creating a mandatory requirement for biodiversity net gain in the planning system.

This strengthens the action already taken to reform farm payments and create the environmental land management scheme to promote sustainable agriculture by paying farmers for work that protects and restores the environment, which a number of noble Lords touched on in their remarks. The noble Lord, Lord Curry, and my noble friend Lady McIntosh asked specific questions about the operation of those schemes, which I am happy to write on.

The noble Baroness, Lady Walmsley, asked about the economic value of soil and what plans we have to address soil degradation. In 2022, we will start rolling out some elements of the environmental land management scheme. The sustainable farming initiative will support sustainable approaches to farm husbandry to deliver for the environment, such as actions to improve soil health.

The noble Baroness, Lady Parminter, asked a question in relation to the Bill on the fact that taxation, spending and the allocation of resources are excluded from the remit of the principles contained in the Bill and the work of the office for environmental protection. This provides maximum flexibility in respect of the nation's finances. I assure noble Lords that this exemption will apply only to the allocation of funding between multiple policies or programmes to or between departments. It is not an exemption for any policy that requires spending. Further, the Treasury takes environmental impacts

[Baroness Penn]
into account in the Green Book, which guides policy-making decisions at fiscal events. The Treasury is undertaking work to strengthen those guidelines on environmental policies, including biodiversity. In particular, there is a current review of the environmental discount rate and work is under way on biodiversity evaluation, which the noble Baroness, Lady Young of Old Scone, rightly noted as essential so that we can measure the impact of our policies on biodiversity.

My noble friend Lady McIntosh of Pickering also asked how the Treasury would contribute to the Environment Bill. That work on biodiversity valuation is one example of how it will do so, as it is an essential part of the requirement for biodiversity net gain included in the Bill that the planning system should be able to measure what biodiversity net gain there is.

The noble Baroness, Lady Jones of Moulsecoomb, and many others asked about GDP and role of biodiversity and natural accounting in our national accounting. GDP remains one of our most important economic indicators, because it correlates closely with employment, income and tax receipts and helps guide economic policy. However, the Government recognise that it has its limitations. Indeed, those were acknowledged in Sir Charles Bean's *Independent Review of UK Economic Statistics* in 2016. The Government have fully supported the recommendations of that review, including through providing the ONS with an additional £25 million to support its Beyond GDP initiative to address the limitations of GDP. As part of that work, the ONS published comprehensive natural accounts last year and has started to publish human capital accounts as well, both of which are central to the *Dasgupta Review*'s "inclusive wealth" concept.

The noble Baroness, Lady Jones of Whitchurch, asked about government investment in green jobs. The Treasury has supported a green recovery at the spending review and in this year's Budget. The spending review backed our *Ten Point Plan for a Green Industrial Revolution* with £12 billion of government investment to create highly skilled green jobs in the UK, and spur over three times as much private sector investment by 2030. The spending review also increased Defra's budget by almost £1 billion, helping it to harness the power of nature in the fight against climate change, and to connect people with green spaces by creating habitats and investing in national parks. We have also committed more than £600 million to the nature for climate fund in England, which will support our objective to plant 30,000 hectares of trees a year in the UK by 2025 and to restore more peatlands. During the pandemic, we also set up the £80 million green recovery challenge fund to help our environmental NGOs and their partners invest in a wide range of natural capital improvement projects, including tree-planting and habitat restoration, while protecting jobs.

A number of noble Lords—the noble Lord, Lord Carrington, the noble Earl, Lord Devon, and my noble friend Lord Lucas—raised education. Nature is covered in the national curriculum, and schools have the autonomy to explore the topic further. What is more, in 2017, we introduced a new environmental science A-level which will enable pupils to study topics that support their understanding of climate change and how it can be tackled. An economics A-level also requires the study of the allocation of scarce resources, which could include the effects of economic decisions and activity on the environment.

My noble friend Lord Lucas has raised with me before OCR's proposal for a new GCSE in natural history. The Department for Education is exploring that and has held an initial discussion with OCR, but I should say that it has made no commitment at this stage to introduce such a GCSE.

The noble Baroness, Lady Miller, raised the question of consumer responsibility in the Environment Bill, and the noble Earl, Lord Devon, asked about information and labelling for consumers to improve their understanding of the products they buy. There is an important connection between the products we buy and their wider environmental footprint. The Environment Bill will help consumers to make purchasing decisions that support the market for more sustainable products through powers to introduce clear product labelling that identifies products that are more durable, repairable and recyclable and informs consumers about how to dispose of used products. Clauses will also enable us to set minimum eco-design requirements for products and require the provision of information to buyers to support a shift towards more sustainable products. The Bill also includes an amendment to tackle illegal deforestation in agricultural commodity supply chains.

The noble Baroness, Lady Wheatcroft, and others asked about the role of finance. We absolutely acknowledge the importance of encouraging financial institutions to understand and disclose the impact of their activities on nature. To this end, the Government have offered their support to the Taskforce on Nature-related Financial Disclosure, which looks to do just that.

That is some of the work that we are undertaking at home but, as noble Lords have noted, biodiversity loss is a global crisis. Biodiversity underpins all economic activities and human well-being. It is estimated that $44 trillion-worth of economic value generation—more than half the world's total GDP—is moderately or highly dependent on nature, yet global capital accounts show that from 1990 to 2014 almost 90% of countries have seen declines in their natural capital per head of population.

That is why arresting and reversing the fast decline in biodiversity also requires concerted and co-ordinated action internationally. As the noble Lord, Lord Teverson, noted, this year is critical. As co-host of the COP 26 climate conference, we have made nature one of the core themes that we will raise. As president of this year's G7, the UK will ensure that the natural world stays right at the top of the global agenda, although I cannot speculate on the cast list or invite list for the G7 at this time.

As noble Lords have also noted, the international summit on the Convention on Biological Diversity, to be held in China this year, will see the world come together to agree long-term global biodiversity targets, and as such is a key opportunity to set nature on the path to recovery. The Government have committed to playing a leading role in the development of an ambitious set of global biodiversity targets under the convention.

The Government are demonstrating genuine leadership in other ways too, and have so far committed to spend at least £3 billion over five years on nature and nature-based solutions in developing nations as part of our £11.6 billion commitment to double our international climate finance from 2021 to 2025.

We also committed in the UK's green finance strategy to ensure that our ODA is aligned with our commitments under the Paris Agreement for climate change. Also, as we a signatory to the Leaders' Pledge for Nature, the Prime Minister has committed to mainstreaming nature into all government policy and investment, so officials are also undertaking work to explore how we can nature-proof ODA, not just climate-proof it, and indeed make it nature positive. We have striven to raise ambitions on the international stage as pioneers of the Leaders' Pledge for Nature, which has now been signed by more than 80 countries. Signatories have committed to 10 critical actions to reverse biodiversity loss by 2030. At the same time, the High Ambition Coalition for Nature and People, co-chaired by the UK, has managed to get more than 50 countries to pledge their support for the 30x30 targets to protect at least 30% of the world's land and ocean by May 2030. Of course, the UK has signed up to that itself.

I have tried to cover an immense amount of ground, but I have not managed to cover all the ground noble Lords did in this debate. I apologise to those whose points I did not manage to address directly. I will happily write to all those who have taken part in this debate to pick those up afterwards.

I close by saying that this has been an incredibly important debate. I think it is welcome that a finance ministry, the Treasury, is engaged on these issues. That shapes how we approach our action as a Government on biodiversity and climate change, which, as many noble Lords have said, are two sides of the same coin. I thank noble Lords for their contributions and, finally, make the Government's position clear: biodiversity loss is an issue of critical importance on which we are determined to continue taking action, at home and internationally.

6.55 pm

Baroness Boycott (CB): I thank everyone who spoke and the Minister for that detailed response, which managed to cover a great many of the points that were raised. We have an emergency—I noted that the Minister did not use that word in her response. I thoroughly applaud the Treasury for producing this report. At the beginning of her reply, she mentioned the "thought leadership" approach and said that it was thought leadership for the world. The important thing is that this becomes much more than thought; it has to become action and that has to happen in the Environment Bill, with a lot of detail. It is not enough to just make general sweeping decisions that we have to take nature into consideration; this needs money and attention to detail.

As various noble Lords have pointed out, it is relatively simple to figure out how to lower our carbon emissions because they are measurable, but measuring biodiversity and natural capital is a whole other ball game. I would plead that this huge and fantastic report does not end up on a shelf, as the noble Baroness, Lady Wheatcroft, implied that it might—because many reports do—but instead really becomes a call to action.

I thoroughly endorse the plea of the noble Lords, Lord Carrington and Lord Lucas, and the noble Earl, Lord Devon, for this to get into education. At the end of the day, this is our home and we are asset managers. In the same way that we are lamentable in teaching schoolchildren how to look after their finances, it is now time that we taught them how to look after their larger world. I am also grateful to the noble Baroness, Lady Miller, for bringing up the subject of consumption, which I had not talked about. The consumption habits and patterns of our world are quite unsustainable if we want to make radical change. I cannot respond to every single point, but I thank everyone very much.

I will leave the Committee with one last story. This is not the first time that this has happened, and it has had disastrous consequences. Some 15 years ago, I found myself in Leptis Magna on the north coast of Africa—in a desert with a wonderful old Roman city in it. It had an extraordinary market where they pulled the water down from the mountains and kept it underneath the market to keep the vegetables cool. You look around and think, "Vegetables? What are they talking about?". But the Romans went to north Africa because it was the bread-basket of the Mediterranean at that point. It was so fertile and extraordinary that they could get three wheat harvests a year.

They sustained their civilisation but did not know what they were doing: they planted the crops too often and planted monocrops, and it all fell apart. It was fine then because you just packed your suitcase and went to find another place. We do not have another place. There is no room on Mars—that is a super bad idea, and I wish Elon Musk would spend his money on protecting the environment rather than looking for somewhere else to live.

On that note, I thank everyone very much for the debate and the Minister for her response. I hugely congratulate the Treasury on undertaking this report and publishing it. We all hope that we will see real action in this regard in the months to come.

Motion agreed.

The Deputy Chairman of Committees (Lord Faulkner of Worcester) (Lab): That completes the business before the Grand Committee this evening. I remind Members to sanitise their desks and chairs before leaving the Room.

Committee adjourned at 6.59 pm.