Vol. 816
No. 83

Wednesday
1 December 2021

PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS
OFFICIAL REPORT

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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 SD	Independent Social Democrat
Ind UU	Independent Ulster Unionist
Lab	Labour
Lab Co-op	Labour and Co-operative Party
LD	Liberal Democrat
Non-afl	Non-affiliated
PC	Plaid Cymru
UKIP	UK Independence Party
UUP	Ulster Unionist Party

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House of Lords

Wednesday 1 December 2021

3 pm

Prayers—read by the Lord Bishop of Gloucester.

Water: Sewage
Question

3.06 pm

Asked by ***Baroness Jones of Moulsecoomb***

To ask Her Majesty's Government when water companies will be required to deliver the first stage of reductions in the level of sewage discharged into rivers and the sea.

The Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord Benyon) (Con): My Lords, the Government have been clear that the current number of sewage discharges is unacceptable. Water companies are already making improvements, investing £3.1 billion in the current 2020 to 2025 planning cycle. They need to do much more, which is why we have taken action in the Environment Act and in our draft steer to Ofwat. Defra will set out the level of ambition expected in due course, including in the statutory government discharge reduction plan.

Baroness Jones of Moulsecoomb (GP): I thank the Minister for his Answer. I also thank his colleague the noble Lord, Lord Goldsmith, for his Answer to my Written Question last week, which was about the number of spillages in the lakes at Grasmere and Windermere. I had hoped for some sort of timetable—a few dates, a plan or process—but there was absolutely nothing. In fact, the Answer essentially committed only to maintaining existing levels of discharges, and therefore existing levels of pollution. When are the Government going to set a timetable that we can all see and measure the water companies against, for the whole of the UK?

Lord Benyon (Con): I am not aware of those two specific cases but we will be reporting to this House on our response to the timetable on all the measures—the eight duties listed in the Environment Act, and specifically on storm outflows—in the early part of next year.

Lord Adonis (Lab): My Lords, under regulatory policy statement B2, issued by the Environment Agency on 15 October, the agency is granting dispensations to water companies for maintaining normal sewage treatment standards where they cannot get chemicals because of the "changed relationship" of the United Kingdom with the European Union. How many dispensations have been granted—they have to be notified to the agency—and how many sewage discharges have taken place in consequence of those dispensations?

Lord Benyon (Con): I am full of admiration for how the noble Lord manages to find a Brexit angle on even quite a domestic matter. There is currently no disruption to the supply of water, its treatment or the treatment of wastewater. There was a contingency measure put in place but it has not been required by any water company.

Baroness Altmann (Con): My Lords, further to my question on Monday regarding a ban on wet wipes, can my noble friend comment on whether, with wet wipes being a significant cause of sewage blockages or overflows, the Government might support the Bill being debated on Friday in the other place to ban wet wipes? Could such a ban be introduced by secondary legislation through the new Section 141A, inserted by the Environment Act, to "prepare a plan" to reduce these discharges?

Lord Benyon (Con): The Storm Overflows Taskforce is considering wet wipes because they can be a contributing factor, as my noble friend so rightly says, to the overflows at treatment works. Defra has announced a call for evidence, which will explore a possible ban on single-use wet wipes containing plastic. We will be looking closely at the Private Member's Bill to see whether the Government and the Member of Parliament concerned can work together on this.

Lord Trees (CB): My Lords, the discharge of sewage contaminates the environment both with potentially pathogenic bacteria and with antibiotic-resistant bacteria, and, indeed, with antibiotics. This all contributes to a reservoir of potential infection for humans and animals, and to the further evolution of antibiotic resistance. While the UK Government's national action plan on antimicrobial resistance recognises this, there is no mandatory surveillance required for antibiotics or antibiotic resistance in aquatic environments. Can the Minister tell the House if and when such mandatory monitoring will be instigated to provide evidence-based mitigation measures?

Lord Benyon (Con): The noble Lord raises a really important point. The Government are looking at this right across the piece as a "one health" approach across human and animal health, food and the environment. We have set up a project called Pathogen Surveillance in Agriculture, Food and the Environment, which brings together a number of agencies and departments. It contains a workstream focused on AMR prevalence in two river catchments. This work will strengthen our understanding. We are also working with the Environment Agency and the water company chemical investigations programme to make sure that we are all pulling in the same direction to tackle this very important matter.

Lord Robathan (Con): My Lords, the amendment to the Environment Act that was brought forward by the noble Duke, the Duke of Wellington, shows that this House can really improve legislation. I think everybody would agree with that. Rather surprisingly, I hasten to add, I had no role in this at all because I think I probably voted with the Government. Water companies have not always been at the forefront of cleaning up their own act—if you will excuse the pun. What has the initial reaction of the water companies been to this new amendment, and when are they going to start meeting my noble friend if they have not done so already?

Lord Benyon (Con): The actions of water companies in relation to storm outflows has been brought into sharp relief by the debates around what is now the Environment Act, and other measures being brought forward by pressure groups and parliamentarians. Water companies are very seized of this and they have new responsibilities—not just through the provision of the Act, but through our direction to Ofwat and our ability to look at their plans to make sure that they comply. I do not think there has ever been so much focus on what they can do, and I do not think they can get away with the levels of sewage outflows into our rivers under the measures we are bringing forward.

Baroness Hayman of Ullock (Lab): Surfers Against Sewage has an annual water quality report which found that water companies have actually increased the amount of raw sewage dumped into our rivers and seas—an 87% increase from last year. The Government have now said that they have the tools to act and hold water companies to account. I am pleased that they now see that sewage discharges are completely unacceptable. The Question asked by the noble Baroness, Lady Jones, was, however, about timescales and urgency. Can the Minister assure your Lordships that when the Surfers Against Sewage annual report is published next year it will show a significant decrease in the amount of sewage flowing into our waterways?

Lord Benyon (Con): I am a great admirer of Surfers Against Sewage; it, along with Members of this House and others, has strengthened the hands of those in government who wanted to see that we have proper measures against sewage outflows. As I said in reply to the noble Baroness, Lady Jones, we will respond on the timescale as indicated, in the early part of next year. We are treating this as a matter of urgency, and we want to hold water companies to account to react quickly to the new measures we are bringing in.

Baroness McIntosh of Pickering (Con): Will my noble friend confirm that the water industry welcomes the amendment proposed by the noble Duke, the Duke of Wellington, as giving it for the first time the legal basis on which to make the necessary investment? Will the Government accept that the flip side to that is the regulations to be introduced under Schedule 3 to the Flood and Water Management Act 2010, which will introduce natural flood schemes such as SUDS to prevent combined sewers overflowing? When will my noble friend bring these regulations forward?

Lord Benyon (Con): I am pleased to tell my noble friend that her hour has come. The review is due to complete by autumn 2022.

Lord Clark of Windermere (Lab): My Lords, each day, hundreds of individuals swim in England's largest lake, Windermere. In view of the recent revelations about periodic sewage disposal in the lake, can the Minister give the House a categorical assurance that it is safe for those swimmers to carry on doing so?

Lord Benyon (Con): If the noble Lord will allow me, I will write to him with a specific technical response, because we are talking about public health and I want to make absolutely certain that he has the necessary information that the agency will provide me with.

Baroness Bakewell of Hardington Mandeville (LD): My Lords, I have listened carefully to the questions and the answers given by the Minister but remain unconvinced that much is going to change quickly—and I am really pleased that I am not a wild swimmer. Why does the Minister think it acceptable for raw sewage to continue to be discharged into our water and for water companies not to take any immediate action to prevent this? Why are shareholders' dividends being put before water quality?

Lord Benyon (Con): I do not speak for water companies, but I think they are taking this matter extremely seriously. My local water company, Thames Water, recently wrote to me about measures it is taking in relation to a chalk stream which it has previously polluted. I know for a fact that water companies are deeply seized of the urgency of this situation, and their encouragement to support the amendments shows willingness. We are not complacent. We will hold them to account through all the mechanisms that we can use. Where they falter, they will be fined. Southern Water was fined £90 million, the largest fine of such a kind, last year. The Government will not be afraid to continue that sort of action if required.

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

Early Years Interventions

Question

3.17 pm

Asked by ***The Lord Bishop of Gloucester***

To ask Her Majesty's Government what assessment they have made of the benefits of early years interventions on people's welfare and social mobility later in life.

Baroness Chisholm of Owlpen (Con): My Lords, we know that the early years are key to children's later life chances, and effective early support is crucial. That is why we have put unprecedented investment into childcare over the past decade, committed £153 million to support education recovery in the early years, rolled out the proven Nuffield Early Language Intervention, and have announced £300 million to create a network of family hubs and transform crucial Start for Life services.

The Lord Bishop of Gloucester: I am grateful to the noble Baroness for her Answer. Given the crucial lifelong impact of the early years on individuals, the economy and society, and that we spend so much time, money and resources attempting to fix things later in life which could have been prevented, how do the Government plan to build on Start for Life and ensure that benefits are sustained for children beyond the age of two through the early education and childcare system?

Baroness Chisholm of Owlpen (Con): The right reverend Prelate is a great champion of young children. We have both worked with a charity called the Nelson Trust, which looks after disadvantaged children. There is £300 million to transform Start for Life services and create a network of family hubs in half the councils across the England. It will provide thousands of families with access to support where they need it. The Department for Education, the DHSC, the DWP and the Department for Levelling Up, Housing & Communities are working together to ensure that those who need the help get it.

Lord Bethell (Con): My Lords, perinatal mental health issues cost the NHS and social services £8 billion a year, much of that because of the impacts on children, yet half of such cases go undiagnosed and even those who are diagnosed rarely get evidence-based treatment. We welcome the women's health strategy, but what more is being done to address this frequently overlooked cause of misery and sometimes death?

Baroness Chisholm of Owlpen (Con): This is such a distressing time for all mothers. They have babies and expect things to be very special and magical but so often discover the opposite. We must make sure that things are put in place to help them. As of April 2019, all areas in England now have comprehensive specialist community perinatal mental health services in place, which saw 30,700 people in 2020-21, re-expanding access to psychological and talking therapies with specialist perinatal mental health services. This will see 26 hubs, with 10 new hubs in the process of being set up and the rest due to open in April 2022. These hubs will offer treatment for a range of mental health issues, from postnatal depression to severe fear of childbirth to around 6,000 new parents in the first year. The new centres will also provide specialist training for maternity staff and midwives, as well as services for reproductive health and bereavement.

Baroness Prashar (CB): My Lords, acquisition of language and communication skills are absolutely essential for children in their early years, as they underpin their future development and life prospects. However, awareness among parents and support is lacking. Support and training for early years teachers is inadequate and there is a high level of turnover in the early years workforce, which is losing experienced staff due to low salaries and lack of career benefits. There is concern about the viability of the sector. The House of Lords Public Services Committee report, *Children in Crisis*, published on 19 November, highlighted research by the LSE which showed that "the economic cost"—

Noble Lords: Question!

Baroness Prashar (CB): It is coming. The research showed that the

"economic cost of failing to invest in the early years in 2018/19 was £16.13 billion".

Does the Minister agree that investing in early years provision, such as increasing parental engagement and support and sustaining a high-quality early years workforce will be better value for money and socially beneficial? Can she please draw this to the attention of the Treasury?

Baroness Chisholm of Owlpen (Con): As part of the Covid recovery strategy, we have invested £17 million in the delivery of the Nuffield Early Language Intervention programme, improving the language skills of reception-age children who need it most—language skills are so important. Of course, it will not be possible to put that in place unless we have the workforce to do it. The department is committed to supporting the sector to develop a workforce with the appropriate knowledge, skills and experience to deliver high-quality early education and childcare. We are investing £20 million in a high-quality, evidence-based professional development programme for practitioners to target disadvantaged areas and a further £10 million in funding a second phase of the programme, which will be announced shortly.

Baroness Warwick of Undercliffe (Lab): My Lords, children in deprived areas benefit most from early years education and childcare. Problems can be identified and appropriate interventions arranged. They are better prepared for school and learn valuable social and cultural skills. Big nursery chains are expanding when they can charge fees. Poorer children's needs are often met by smaller, stand-alone nurseries that cannot survive without adequate local authority funding. The projected increase next April will not be enough to cover the increases in costs of the minimum wage, national insurance, energy, pensions, resumption of business rates and so on.

The Lord Privy Seal (Baroness Evans of Bowes Park) (Con): My Lords, may I please remind noble Lords that this is Question Time, not speech time? Can we please have pithy questions so that everybody can ask what they want?

Baroness Warwick of Undercliffe (Lab): How do the Government hope to sustain those nurseries' vital contribution to social mobility if their funding remains inadequate?

Baroness Chisholm of Owlpen (Con): Of course it is very important that the independent nursery schools carry on. We are investing additional funding for the early years entitlement worth £160 million in 2022-23. This is for local authorities to increase the hourly rates paid to childcare providers for the Government's free childcare entitlement offers and reflects cost pressures as well as anticipated changes in the number of eligible children. The Government have confirmed the continuation of the maintained nursery schools supplementary funding throughout the SR period, providing the sector with long-term certainty. For 2022-23, we will increase the MNS supplementary hourly funding rate by 3.5%.

Baroness Garden of Frognal (LD): My Lords, it is widely accepted that the first few years of a child's life can influence their development, education, character and aspiration. Disadvantaged and disabled children need much more help than most, so will the Government commit to additional funding, either through the early years pupil premium or a disadvantage supplement for those eligible for the two-year offer?

Baroness Chisholm of Owlpen (Con): That was very succinct. This is a very important area and the whole point about the family hubs we are setting up across the country is that we are bringing everybody together—families, professional services and providers—and putting relationships at the heart of family help, making sure that family hubs bring together services for children of all ages, who all need help. Family hubs can include both physical locations and virtual offices to help parents.

Lord Watson of Invergowrie (Lab): My Lords, the additional funding announced in the spending review to support children and families, including, as the Minister said, the creation of family hubs, is very welcome, but organisations working with disabled children and parent carers, such as the Disabled Children's Partnership, remain unclear as to how these new hubs will deliver the care that disabled children and their families require, particularly given the backlog in the delivery of those services from existing hubs. Can the Minister outline how that will be delivered once the new hubs are in place?

Baroness Chisholm of Owlpen (Con): As the noble Lord said, it is very important that no one is left behind. The SEND review is looking at ways to improve the outcomes for children and young people with SEND. There has been a consultation and proposals will be published in the first three months of next year, when I hope we will know more.

Lord Young of Cookham (Con): Has my noble friend had time to read your Lordships' Public Services Committee's report on vulnerable children, published a fortnight ago, finding that many fall through the gaps—going into care, being excluded, joining county lines and ending up in custody—and cost far more than if there had been early intervention? Can she ensure a positive response from the Government to the committee's recommendation that the Government should publish and fund a co-ordinated national strategy to give a better life chance to these vulnerable children?

Baroness Chisholm of Owlpen (Con): I have to say to my noble friend that I have not read the report, but I certainly will—it is going to be my weekend reading. We welcome the report from the Lords Public Services Committee. We are reviewing its recommendations and will respond in due course. Our work and investment towards introducing family hubs that work with children and families from birth to adulthood is so important in the field of vulnerable children and young people.

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

HGV Driving Tests

Question

3.28 pm

Asked by ***Baroness Randerson***

To ask Her Majesty's Government what progress they have made towards amending the requirements of the driving test for HGV drivers.

Baroness Chisholm of Owlpen (Con): I am doubling up and answering for my noble friend Lady Vere of Norbiton today. There is something about Whips: they are definitely versatile, if nothing else.

Noble Lords: Hear, hear!

Baroness Chisholm of Owlpen (Con): Regulations came into force on 15 November 2021: the Motor Vehicles (Driving Licences) (Amendment) (No. 4) Regulations 2021, which removed the staging element for provisional vocational licence holders wishing to drive an articulated HGV, and the Motor Vehicles (Driving Licences) (Amendment) (No. 3) Regulations 2021, which allow HGV off-road manoeuvres to be tested by approved third parties. Legislation for the Motor Vehicles (Driving Licences) (Amendment) (No. 2) Regulations 2021 was relaid on 23 November 2021 to allow full car licence holders to tow a trailer without having to pass a separate category B+E test.

Baroness Randerson (LD): My Lords, the Government's emergency measures to deal with the driver shortage include ending the need for additional training and testing for qualified van and car drivers before they can tow trailers and caravans of up to 3,500 kilograms. In future, you will be able to pass your driving test one day and tow your caravan up the motorway the next, without any additional training. This requirement was originally introduced in 1997 for road safety reasons. Does the Minister agree that the Government need to look again at this irresponsible plan and heed the serious safety warnings coming from the haulage industry to preserve Britain's good record on road safety?

Baroness Chisholm of Owlpen (Con): The department and the Driver and Vehicle Standards Agency will continue to encourage people who want to drive a car and trailer to get professional training, to promote road safety and support those businesses. All car drivers wishing to tow a trailer for leisure or business will be encouraged to undertake a voluntary accreditation scheme, which is being developed with the help of the trailer industry and training providers. The scheme is planned to be launched early next year and will focus on a core model for all drivers, with sector-specific modules for different towing activities.

Lord Jones of Cheltenham (LD) [V]: My Lords, almost 30 years ago I made my maiden speech in another place on road safety, after I lost one of my schoolfriends in a traffic accident. According to the Road Haulage Association, new recruits to the industry may be put off by the Government's plans to allow longer hours. Is the Minister aware of this? What is her assessment of the implications for road safety of increasing drivers' hours? Are there any plans for a review after 12 months to assess the impact?

Baroness Chisholm of Owlpen (Con): We take safety very seriously. Any death on the road is one death too many. Our record on road safety is internationally recognised, and we will continue to work across a range of sectors to ensure that the details of those changes continue to support high driving standards

for both HGVs and private motorists. We have committed to review the legislation at regular intervals—initially at three years and then at five.

Lord Snape (Lab): What support is there for the Government's proposals as far as the future of the industry is concerned? Does the Minister agree with me and the Road Haulage Association that shorter driving tests do not make for better drivers? There are enough problems around people dying as a result of collisions with heavy goods vehicles without making the driving test any easier.

Baroness Chisholm of Owlpen (Con): I absolutely understand what the noble Lord is saying, but we held quite a big consultation. A lot of people in the industry were happy with the new rules going ahead. We have had to take some action to ease the problem, and I feel we have taken proportionate action to do this without hampering safety on the roads.

Lord Kirkhope of Harrogate (Con): In the last 18 months, we have lost 55,000 domestic United Kingdom HGV drivers. Many reasons have been given for this, one of which is the lack of proper facilities on the routes which they cover. I know the Government have provided £32 million in the Budget to alleviate some of these problems, but does my noble friend think this is enough, particularly as there is a mammoth shortage—only 1,400 places for parking these vehicles while heavy goods vehicle drivers carry out their work?

Baroness Chisholm of Owlpen (Con): My noble friend makes a very good point. We are committed to looking at established and new approaches to increase the provision for improved overnight lorry parking in England, as well as developing innovative approaches to provide more capacity. The Secretary of State has announced an investment of £32.5 million in the next spending period in roadside facilities for HGV drivers on the road. The funding will go towards supporting the industry to improve the security and facilities available to existing sites, making the use of lorry parks more attractive to drivers. It may also be used to increase spaces for lorry drivers in England, mainly through part funding of local proposals. This can clearly be done; my noble friend Lady Bloomfield told me this morning that a new facility has been opened in Kent which has 400 additional slots opening up over the Christmas period, with top-range food—both foreign and English—as well as showers, loos and everything else that might be needed.

Lord Rosser (Lab): As has been said, one of the issues raised in relation to the shortage of HGV drivers is the poor facilities available for such drivers to take a break out of the cab and be able to get something to eat, use clean toilets and take a shower. We continue to see massive developments in warehousing and logistics, with giant sheds being put up and distribution centres opened. Why do the Government not set minimum standards for the facilities that have to be provided for drivers, and why is that not a requirement for granting planning permission for such developments, including those facilities having to be available to all HGV drivers who wish to use them?

Baroness Chisholm of Owlpen (Con): The noble Lord makes a good point. The Government are determined that the planning system should play its part in meeting the needs of hauliers and addressing current deficiencies. Planning plays a critical part in the allocation of land for lorry parking. On 8 November, the Secretary of State for Transport published a Written Ministerial Statement addressing the strategic national need for more lorry parking and better services and lorry parks in England, and we will be investing £32.5 million in roadside facilities. We have published planning practice guidance setting out how local planning authorities can assess the need for, and allocate land to, logistical site users, and we are accelerating work recommended by the National Infrastructure Commission to consider the appropriateness of current planning practice guidance. This includes taking forward a review of how the freight sector is currently represented in guidance.

Lord Berkeley (Lab): My Lords, has the Minister ever tried to reverse a caravan, a trailer or a boat or heavy goods vehicle trailer? Would she not agree that it needs quite a lot of training? It is very nice for those who cannot be bothered to take a test to hear the Government say that we do not need a test any more, but that cannot contribute to road safety.

Baroness Chisholm of Owlpen (Con): The noble Lord will be pleased to hear that I can reverse a trailer; I have been doing so from quite a young age, and quite successfully. At the moment, I have to reverse a trailer into a tiny space by our carport, and I can do it.

Noble Lords: Hear, hear!

Baroness Chisholm of Owlpen (Con): But the noble Lord makes an important point. The reversing exercise is one of the common reasons for failure in most of the tests; taking and passing this part of the test with an assessor from the driver's training school will speed up this element of the test without compromising safety. The Government have announced 32 measures to tackle the driver shortage and bolster supply chains in the UK. However, we are not taking away safety, and we hope that the fact that the test will still be done, even if it is by the training school, means that it will be safe.

Lord Foulkes of Cumnock (Lab Co-op): My Lords, I am glad that I did not ask the question about reversing. I follow up the excellent question from the noble Lord, Lord Kirkhope, about facilities. Has the Minister ever been to France? In France, they do not just have service areas but "aires" where heavy good vehicles can stop or park, with toilets and places where the drivers can wash, and they are all the way down every motorway and main road. If the French can do it, why cannot we?

Baroness Chisholm of Owlpen (Con): I agree; anything the French can do, we can definitely do better.

Noble Lords: Hear, hear!

Baroness Chisholm of Owlpen (Con): We are heading into the ridiculous now, are we not? I answered that question when I answered my noble friend Lord Kirkhope.

[Baroness Chisholm of Owlpen]
I could not agree more; this is very important and vital. If we do not do this, we will not get the drivers to drive our HGV lorries, and we are working on this. As I said, it can be done, because one in Kent has just opened.

Lord Foulkes of Cumnock (Lab Co-op): One.

Baroness Chisholm of Owlpen (Con): Yes, I know; we need to go right across the country, and we will do so.

The Lord Speaker (Lord McFall of Alcluith): My Lords, all supplementary questions have been asked and we move on to the next Question.

Ambulance Response Times
Question

3.39 pm

Asked by ***Baroness Brinton***

To ask Her Majesty's Government what assessment they have made of current ambulance response times; and what steps they are taking to reduce them.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Kamall) (Con): We recognise the unprecedented pressures that the ambulance service is facing, and strong support is in place. A £55 million investment by NHS England and NHS Improvement will provide 700 additional staff in control rooms and on the front line to improve response times. This is alongside £4.4 million to keep an additional 154 ambulances on the road this winter. NHS 111 is recruiting an additional 1,100 staff, alongside a £250 million winter GP capacity fund to avoid unnecessary ambulance calls and visits to A&E.

Baroness Brinton (LD) [V]: Last week, the BBC reported that Shropshire had run out of ambulances, as every ambulance was queueing outside hospitals. Yesterday, the *Shropshire Star* reported that the West Midlands Ambulance Service had apologised that ambulance-hospital handover times were now four hours. This is happening all over the country, and people are dying waiting for paramedics. This is before the expected winter surge starts, so what is the Government's emergency plan right now?

Lord Kamall (Con): The Government understand that the reason for a number of these waits is related to the Covid pandemic and increased callouts, and we have stats for that. Ministers are in regular contact with NHS England and NHS Improvement about the performance of the emergency service care system, including the ambulance service. One Minister of State has meetings that track the improvement effort at all times, including in ambulance trusts. In addition, there is investment of £55 million to boost ambulance staff by more than 700 and £4.4 million to keep an additional 154 ambulances on the road. Also, we are looking at ways to stop people calling out an ambulance when they do not need to—when their calls could be handled without the need to call out an ambulance.

Baroness Thornton (Lab): My Lords, it seems clear that the problem is a symptom of system pressures and will require a whole-system approach to resolve it once and for all—Covid, social care packages to help with discharges and local factors, and the fragility of the NHS infrastructure going in to the pandemic. The Minister has explained some of the short-term emergency plans literally to save lives, but in the absence of an NHS workforce strategy, how will the Government produce a system-wide resolution of this matter?

Lord Kamall (Con): The noble Baroness makes a very important point: we should be looking at this in a systemic way. In fact, I did my PhD in a department of system science, where you look at problems in a holistic way—rather than analysing individual problems, you look at the whole system. We found odd unintended consequences. For example, a friend forgot his inhaler, could not get one from the chemist, could not get one from the A&E and, in the end, had to call out an ambulance. There are a number of times when ambulances are called out needlessly, and that is on top of the pressures we are already facing due to Covid. We are tackling the backlog, which, hopefully, will also reduce ambulance waiting times.

Baroness Walmsley (LD): My Lords, is the Minister aware that every ambulance service in the country is currently on black alert? The problem goes both upstream, into the community, and downstream, into the hospitals and social care. What are the Government doing to decrease the number of older people being blue-lighted into A&E because they cannot get the social care services to keep them safe in their own homes?

Lord Kamall (Con): The noble Baroness makes a very important point. We are all aware of the difficulties in different parts of the system. We have invested £450 million to upgrade A&E facilities in more than 120 separate NHS hospitals ahead of last winter, and this is being used to boost the physical capacity of A&E through expanded waiting areas, increasing the number of treatment cubicles, reducing overcrowding, et cetera. This is alongside an additional £1.8 million to place more hospital ambulance liaison officers at the most challenging acute trusts to help address the long delays, to reduce ambulance queueing and to get crews back on the road quickly.

Lord Rogan (UUP): My Lords, the Northern Ireland Ambulance Service and its personnel hold a special place in the hearts of the people there because of their bravery, selflessness and professionalism during 30 years of terrorist violence. With Northern Ireland currently registering the highest Covid infection rate in the UK, the ambulance service is now facing a new challenge, with waiting times trebling and some patients having to wait for up to six hours outside emergency departments to be admitted to hospital. What assurance can the Minister offer the people of Northern Ireland that Her Majesty's Government are aware of this problem and will offer all possible support to local Ministers to help solve it?

Lord Kamall (Con): I thank the noble Lord for raising that point and making people aware of the challenges in Northern Ireland. As he will be aware, health is a devolved issue, but we are very much aware of the challenges in all four of the devolved Administrations. If he would write to me with extra information, I should be happy to pass it on.

Baroness Tyler of Enfield (LD): My Lords, it is estimated that nationally, a quarter of patients in beds are clinically ready to leave hospital but cannot do so due to problems of discharge—particularly a lack of available care in the community. With fewer available beds, ambulances cannot discharge patients to a bed, leading to a lack of ambulances and paramedics available to deal with other emergencies. What plans do the Government have to deal urgently with the problem of discharge to help the NHS get through the winter?

Lord Kamall (Con): All noble Lords have raised important points about the pressures on different parts of the system. In taking a systemic overall view, the Secretary of State is holding regular "pressure" meetings and looking at the key metrics in getting those pressures down. He is also looking at how we can tackle things systemically from within, including discharge issues. We are looking at how to improve on discharges to make sure that there is enough space, thereby continuing to ensure not only that elderly patients are back in their homes as quickly as possible, but that we reduce the length of time that others have to wait for ambulances.

The Lord Speaker (Lord McFall of Alcluith): My Lords, that concludes Oral Questions for today.

HIV and AIDS

Private Notice Question

3.46 pm

Moved by ***Lord Fowler***

To ask Her Majesty's Government what assessment they have made of the progress that has been made in the UK and globally in reducing HIV and AIDS, since World AIDS Day in 2020.

Lord Fowler (CB): My Lords, I beg leave to ask a Question of which I have given private notice. I declare my interest as an ambassador for UNAIDS.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Kamall) (Con): Perhaps I may start by paying tribute to the noble Lord, Lord Fowler, for his work as the ambassador for UNAIDS and for following this issue ever since the 1980s, when he was Secretary of State. We should recognise his commitment to this issue.

We believe that the UK can be proud of its efforts. Since last World AIDS Day, the UK signed up to the progressive and ambitious political declaration at the UN high-level meeting in June and declared our commitment to delivering a new global AIDS strategy so that the world has the best chance of meeting the 2030 goal of ending AIDS altogether. Noble Lords will be aware that, domestically, we have published a new HIV action plan.

Lord Fowler (CB): My Lords, this is World AIDS Day and the international position is anything but encouraging. Has the Minister seen the reports of the serious setbacks in the fight against AIDS over the past year, with testing figures down by 40% and an annual death toll of over 660,000? Will he join me in paying tribute to the many non-governmental organisations and volunteers around the world whose efforts have prevented the toll from AIDS becoming even more catastrophic?

Lord Kamall (Con): I am sure that all noble Lords would like to join the noble Lord, Lord Fowler, in celebrating the work of the NGOs. A lot of aid is government to government, which can sometimes be a barrier in reaching those it needs to help, especially in countries where the people who are suffering from HIV are discriminated against or stigmatised. Often, the best way to reach them is not via government but via those NGOs, so of course, I pay tribute to them, as I am sure all noble Lords do.

Lord Cashman (Non-Afl): My Lords, the Global Fund to Fight AIDS, Tuberculosis and Malaria has saved 44 million lives since being founded 20 years ago. It is estimated that more than 3 million of those were thanks to UK aid. Therefore, will the Minister confirm that continued close partnership with the Global Fund will remain a central pillar of the UK Government's planned international development and global health strategies?

Lord Kamall (Con): I thank the noble Lord for his question and pay tribute to his work during our many years together in the European Parliament, where he was probably one of the strongest champions for LGBTQ+ issues, and AIDS and HIV awareness. My only regret is that I was not able to champion as strongly as I wanted to on ethnic diversity and the lack of it in the EU. Of course, we remain committed to the Global Fund and to other partners, including UNAIDS and the global financing facility. It is important that we all work together on this issue, not only in our own countries but particularly in countries where the situation is difficult and people have challenging health systems, and in countries where, unfortunately, gay people or those suffering from HIV are discriminated against or even stigmatised. One of the things that we can be proud of in the UK is that we stand up for those people.

Baroness Barker (LD): My Lords, over the past 40 years, this country has led the international efforts to overcome HIV and AIDS. We have done so by leveraging our contributions to international funds. Unfortunately, in 2021, those were significantly cut, jeopardising world-leading research at a point when we were very close to some game-changing treatments and diagnostics. Will the FCDO review look, as a matter of urgency, at restoring the funding for UNAIDS and Unitaid?

Lord Kamall (Con): I am sure that noble Lords understand the reasons for some of those cuts in terms of the pandemic and needing to redirect resources, but

[Lord Kamall]
we are committed to continuing with funding and working at an international level. In fact, this issue has come up at a number of G7 international health meetings attended by UK representatives. The UK is seen on the diplomatic circuit as one of the leaders standing up for the rights of both gay people and people with HIV/AIDS.

Lord Lexden (Con): Does the Government's welcome new commitment, announced today, to ensure that home testing is available throughout the country mean that anyone who wants a test will be able to get one throughout the year?

Lord Kamall (Con): I thank my noble friend for his question. I am pretty sure that the answer is yes.

Baroness Chakrabarti (Lab): My Lords, generic drugs were crucial to the global response to HIV/AIDS; I see the Minister nodding. In that case, will we learn that lesson for this pandemic and stop blocking the TRIPS waiver so that we can better vaccinate the global south and protect ourselves from new variants?

Lord Kamall (Con): One of the best ways to help to vaccinate people across the world is through multilateral, bilateral and plurilateral partnerships. We will have donated 100 million coronavirus vaccine doses by next June. We are committed to working internationally. This issue comes up at the G7 where, once again, we are seen as leaders on the COVAX programme and other such programmes. It is important that we focus on what is effective and how we can get vaccines to those who really need them.

Baroness Bennett of Manor Castle (GP): My Lords, following on from the noble Baroness's question, the UK Government played a leading role in establishing the Medicines Patent Pool, which is a means of simplifying and accelerating the generic production of HIV medicines by sharing patents. Does the Minister agree that a global pooling mechanism for Covid-19 would support countries' ability to access the vaccine and the drugs required to control Covid-19 infections? Will the Government give their full support to the Covid-19 Technology Access Pool and encourage UK pharmaceutical companies to license through it?

Lord Kamall (Con): In tackling coronavirus and helping those who cannot access even a first dose of the vaccine while people in this country are now going for their third—even fourth—injection, it is really important that we act internationally. This issue comes up at international meetings. We are seen to be leaders in co-ordinating; we are doing much of that via the international COVAX programme and by talking to pharmaceutical companies about what more they can do.

Baroness Manzoor (Con): My Lords, more than 40% of people who are diagnosed are diagnosed later in life. Can my noble friend say what the Government are doing in relation to this so that the stigma is removed and people come for testing much earlier? I welcome the government strategy as it currently stands.

Lord Kamall (Con): I thank my noble friend for making that point. I am afraid that I do not have specific details on the older population, but I will make sure that I write to her.

Lord Collins of Highbury (Lab): My Lords, the Minister mentioned stigmatised communities. UK civil society organisations have raised concerns that previous global health strategies have failed to address the gender-specific aspects of HIV, in particular the priorities of marginalised women. Can the Minister tell us how the FCDO's planned global health strategy will address the underlying structural inequalities that contribute to the vulnerability of girls and women?

Lord Kamall (Con): The Government have made more money available for the funds, particularly in helping young girls and young ladies in different countries. At the same time, we must work out what we can do, as donors or as an international community, to help address some of the structural inequalities in particular countries. We can name it, we can draw awareness to it, but how much deeper can we go? Quite often, one of the best ways to do this is to support the NGOs who are right at the heart of the community, understanding these issues and understanding the structural inequalities on a daily basis.

Lord Hayward (Con): My Lords, following on from the question asked by the noble Lord, Lord Collins, but bringing it to this country, there is still a general perception that HIV/AIDS is a gay disease. There is a growing proportion of the population that are infected who are heterosexual. Can my noble friend ensure that the messaging is directed at heterosexuals as well as the gay community?

Lord Kamall (Con): I thank my noble friend for making that very important point and for stressing that this should be seen not just as a gay disease but as a disease that heterosexual and other people also suffer from. One of the issues in the HIV plan has been to ensure that those communities which maybe have a macho approach to a number of these issues are addressed, particularly at the local community level. It is very difficult, and we have to tread carefully, particularly with some of the ethnic minority communities, so that we are not seen to be stigmatising that community or blaming them but getting the right balance. The fundamental point that my noble friend makes is very important and we should repeat it: HIV does not affect only gay people—it also affects heterosexual people and younger communities.

Lord Laming (CB): When coronavirus struck us, within a year, remarkably, a number of vaccines had been produced, to huge effect. Does that not stand in marked contrast to what has happened with HIV/AIDS? Is it not amazing that 20 years after the noble Lord, Lord Fowler, did so much to establish a proper response to HIV/AIDS, we still have do not have the medical support that we need for it? Can the Minister take this back to the department and see what more can be done to improve the situation?

Lord Kamall (Con): The noble Lord makes an incredible point. Not many people are aware that there is no cure as such yet. It is about ensuring that you reduce the risk of transmission and that those who contract HIV can live longer, as opposed to the beginning of the 1980s, when this epidemic hit us, and sadly many people lost friends, loved ones and others prematurely. On looking for a cure, I assure the noble Lord that the department is very aware of that. In my briefing for this I asked how come we still do not have a cure after so long—a question that continues to be asked. Let us pay credit to the pharmaceutical industry and the medical profession. They have tried.

Lord Brooke of Alverthorpe (Lab): What steps are being taken with those members of the Commonwealth who have difficulties accepting or supporting the gay community?

Lord Kamall (Con): The noble Lord makes a very important point that we should be aware of and address. We are aware of certain countries—I have been warned not to name and shame them, sadly—which stigmatise, discriminate, or have some other explanation. One of the best ways to deal with this sometimes is not via government-to-government help but by ensuring that we get to NGOs that are working with people on the ground. Also, at the macro level, in international forums, we can raise this issue. The UK, to its credit, is seen as a world leader when raising these issues at different diplomatic forums.

Baroness Hussein-Ece (LD): My Lords, we heard earlier that HIV/AIDS has always been perceived as a gay problem, which is of course a fallacy; it is also perceived as something that young people are more likely to contract. The facts show that the over-50s have, for the past decade, been the fastest growing group contracting HIV/AIDS and living with it to quite a senior age. What is being done to target that particular group? It is not just young people who are affected by this, but they should also be vigilant in protecting themselves against HIV/AIDS.

Lord Kamall (Con): The noble Baroness makes a very important point of which we should all be aware. It is great that we are all living longer and, as I am sure noble Lords agree, that we are being sexually active for longer. The HIV plan sets out how we look at different—for want of a better word—segments or parts of different communities where there are issues, and how we target messaging there. That is the most important thing, rather than trying to have a one size fits all that others could ignore.

Baroness McIntosh of Hudnall (Lab): My Lords, there has been a huge amount of progress in the last 30 years since—I think I may say my noble friend—my noble friend Lord Fowler did his good work. But there is still work to do in this country. I noted that the Minister proudly referred to there being perhaps less stigma in this country than elsewhere. It is true that we have no room for complacency in this regard and that this is still one of the main reasons why people who should be tested are not being tested. Can the Minister tell the House the Government's current assessment of the infected but untested rate of HIV/AIDS in this country?

Lord Kamall (Con): I am afraid I do not have a specific figure for the noble Baroness, but the action plan sets out how we are going to increase access to and scale up HIV testing, by focusing on populations and settings where testing rates have not been high to ensure that we tackle them, that new infections are identified rapidly and that people receive the necessary treatment faster to prevent complications. We will operate the annual HIV Testing Week between 7 and 11 February 2022, and the campaign will be called "It starts with me". During that week we will open self-sampling HIV testing services for all residents of England, and we want to make sure that lots of different programmes are raising awareness. I know that a number of noble Lords across the House take this issue seriously and I would welcome their advice.

Road Traffic Offences (Cycling) Bill [HL]

First Reading

4.01 pm

A Bill to amend the Road Traffic Act 1988 and the Road Traffic Offenders Act 1988 to create criminal offences relating to dangerous, careless or inconsiderate cycling, in particular applying to a pedal cycle, an electrically assisted pedal cycle and an electric scooter.

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

Business of the House

Motion on Standing Orders

4.02 pm

Moved by ***Lord Ashton of Hyde***

That Standing Order 73 (*Affirmative Instruments*) be dispensed with to enable motions to approve the Health Protection (Coronavirus, Wearing of Face Coverings) (England) Regulations 2021 and the Health Protection (Coronavirus, Restrictions) (Self-Isolation) (England) (Amendment) (No. 4) Regulations 2021 to be moved today, notwithstanding that no report from the Joint Committee on Statutory Instruments on the instruments has been laid before the House.

Motion agreed.

Procedure and Privileges Committee

Motion to Agree

4.03 pm

Moved by ***The Senior Deputy Speaker***

That the Report from the Select Committee *Speakers' lists for oral questions and 'Secretary of State' questions; Divisions: passreaders* (4th Report, HL Paper 104) be agreed to.

The Senior Deputy Speaker (Lord Gardiner of Kimble): My Lords, the Procedure and Privileges Committee report proposes ending the use of speakers' lists for Oral Questions and Secretary of State Questions. It may assist the House if I briefly recount the background. Prior to the pandemic, there were no speakers' lists for Oral Questions. Members who wished to ask a supplementary question stood and began to ask their question. If more than one Member stood, they gave way to each other. If there was a dispute about who should give way, the sense of the House, interpreted by the Leader of the House if necessary, determined which Member should speak.

During the operation of the hybrid House model, speakers' lists were necessary for all business to manage proceedings; self-regulation was not an option with most of us participating remotely. In July, the Procedure Committee reported proposals to the House about which practices should be retained from the hybrid House model and where we should revert to pre-pandemic ways of working.

It is fair to say that the committee was split when it looked at the matter of speakers' lists for Oral Questions in July. We decided to consult the House using the voting system on PeerHub to determine the preference of Members. That consultation found a majority in favour of keeping speakers' lists, so we recommended that to the House and it was agreed on 13 July.

However, we undertook to keep these changes under close review, and in recent weeks it has become clear to us that many Members of the House are increasingly concerned over the effectiveness of Oral Questions. There is a strong sense that removing the element of spontaneity has limited the ability of Members to hold Ministers to account. On some occasions recently, speakers' lists have not been full by the time they closed, and Members who might have wished to ask a supplementary question in the light of the Minister's response have been unable to participate. The committee therefore recommends the removal of speakers' lists for Oral Questions. If the House agrees the Motion, the use of speakers' lists for Oral Questions will cease with effect from Monday 6 December.

As part of this change, we have considered how the House can continue to benefit from the perspectives of Members who are eligible to participate remotely. We propose that they give notice the day before of their intention to ask a supplementary on a particular Question, as they do currently to join the speakers' lists. On the day, the normal rotation of supplementary questions between the groups and parties would take place, and at an appropriate point the Leader, on the basis of prior consultation with the usual channels, would stand and indicate that the House might wish to hear from an eligible Member belonging to the party or group whose turn it was.

There would, of course, be no guarantee that eligible Members would be called to ask a question, just as there is no guarantee that a Member physically present will be able to ask a supplementary question in the time allowed. But—and I emphasise "but"—we trust that the sense of the House, assisted by the Leader of the House, will support their continuing full participation.

The committee's report notes that the conduct of Oral Questions before the pandemic was not immune from criticism. While it ensured spontaneity, it was often voluble and at times fractious. There were also concerns that some Members were discouraged from participating in Question Time as a result. We emphasise —and I underline "emphasise"—that it will be incumbent on all Members to respect the House's traditions of self-regulation, mutual respect, forbearance and courtesy.

I turn to the amendments to the Motion. At the outset, I outline that all three raise broad issues about the conduct of Oral Questions and the role of the Lord Speaker and Leader—issues that are not addressed in the report before your Lordships. I am, of course, in the hands of the House. I have no mandate from the committee to express a view on the amendments, but I do have a duty to advise on the consequences if any of them is agreed.

The amendment from the noble Baroness, Lady Quin, is incompatible with the recommendations contained in the report. The report recommends the reinstatement of the pre-pandemic procedure for Oral Questions, while the noble Baroness's amendment would confer upon the Lord Speaker the task of calling on Members. If her amendment were agreed, my Motion as amended would be self-contradictory. I would therefore propose to withdraw my original Motion and invite the Procedure and Privileges Committee to consider urgently the fundamental changes the House had decided to make to the role of the Lord Speaker, the practical implications of such a change and the implications for the House's tradition of self-regulation.

The amendments from the noble Lords, Lord Rooker and Lord Grocott, express regret but do not conflict with the report, so if either of them were agreed I would then propose to move my Motion as amended. I would, of course, also revert to the committee to explore how the concerns expressed could be addressed.

The amendment from the noble Baroness, Lady Quin, proposes to give the Lord Speaker the power to call Members to speak during Oral Questions. The House has considered the role and powers of the Lord Speaker on a number of occasions, most recently on 13 July this year. On that occasion, the House debated an amendment along very similar lines tabled by the noble Lord, Lord Balfe, and rejected it by 376 votes to 112, so the House has only recently voted by a considerable margin to retain self-regulation.

The amendment proposed by the noble Lord, Lord Rooker, expresses regret that the power to call Members participating remotely would be vested in the Leader of the House rather than the Lord Speaker. The view of most members of the committee is that this role sits best with the Leader as part of her task of assisting the House during Oral Questions, as stated in the *Companion*, and that prior consultation in the usual channels will help identify when to bring in remote participants.

The amendment proposed by the noble Lord, Lord Grocott, expresses a more general regret about a diminution of the role of the Lord Speaker. I assure your Lordships that the committee is absolutely not seeking any such diminution. The Lord Speaker will continue to preside at Oral Questions and to call the Members with Questions on the Order Paper and all items of business from the Woolsack.

Lastly, I should note that the report contains a short section reflecting on the debate in the House on 25 October—a debate I shall not forget—on moving to pass reader Divisions. I am very grateful to many noble Lords whom I have spoken to since that debate for the very constructive feedback received. The committee will bring revised proposals on pass reader voting to the House in due course. I beg to move.

Amendment to the Motion

Moved by ***Baroness Quin***

At the end insert "but that the Lord Speaker be empowered to call Members to speak during oral questions, initially for a trial period of six months".

Baroness Quin (Lab): My Lords, I rise to speak to my amendment to the committee's report, which asks that the Lord Speaker be empowered to call speakers at Question Time, following the example of the House of Commons, and for that to happen initially for a trial period of six months.

In introducing this amendment, I should say that that I am a Back-Bench member of the Procedure and Privileges Committee and very pleased to serve on that committee under the chairmanship of the Senior Deputy Speaker. As the Senior Deputy Speaker pointed out, there was a clear majority on the committee for reverting to the old system at Question Time, but it was not unanimous. By speaking to my amendment today, I hope I can indicate that the committee is not a monolith wanting to impose its views on the House but a place with lively debate and with different views reflecting, I hope, the diversity of the House.

I am conscious that the amendment is, as the Senior Deputy Speaker pointed out, similar in its overall objective to one moved in July by the noble Lord, Lord Balfe, whom I see is in his place. It might therefore well be asked why I am travelling down the same route, but although I am a long-standing supporter of the Lord Speaker calling questioners, I know that I, and perhaps many others, voted against the noble Lord's amendment in July simply because we felt it followed too soon on the electronic vote which had approved the continuation of the list system by a majority of nearly 100. It was a question of timing rather than the principle. I am very glad that the noble Lord, Lord Balfe, is in his place and has indicated some sympathy with the amendment I am speaking to. I also welcome the amendments tabled by my noble friends Lord Grocott and Lord Rooker. They, too, highlight the role of the Lord Speaker in ways which I support.

During the pandemic, the House has had to adapt and change its procedures in various new and experimental ways. The adaptability it showed does great credit to our staff, to whom unstinting gratitude is due, and to Members of the House for responding to the challenges in the way that they did. I feel that this precedent of experimentation helps me, and my amendment, in calling for a six-month trial period and that it is feasible and well worth trying.

I have always been struck by the number of people who disliked our pre-Covid system of Question Time—the "shouty system" as I would call it. I remember, however, during our debate in July, that my noble friend Lady Smith of Basildon said that she winced sometimes when dislike of the system was referred to simply as a women's issue. I certainly know that many women, myself included, who are not tall in stature and do not have booming voices, find it difficult and off-putting trying to intervene at Question Time. But it is equally true that many male Members of the House also thoroughly disliked the old system, and that number included many senior and experienced parliamentarians. Across the House, many Members simply felt that trying to get in on supplementaries at Question Time was not something they would want to attempt. They particularly disliked having to try to out-shout their colleagues in the same group in the House.

4.15 pm

The issue is largely a Back-Bench one but, of course, Question Time is very important for Back-Benchers. When I was on my own party's Front Bench, I did not find coming in at Question Time a problem. It is the competition between Back-Benchers of the same group that causes shouting and confusion and gives a poor image of a House which otherwise regulates itself very well. Obviously, I welcome the points made in the report, and again in the House by the Senior Deputy Speaker today, about treating each other with respect. I also note the attempts made within the groupings of this House to get the system to work better—by Whips, for example. But similar exhortations in the past have not made much difference and would be less effective than what I am proposing.

Having served as a Member of Parliament in the other place for some 18 years, I felt throughout that time that the conduct of Question Time in terms of who got called worked well. I was never aware of any serious concern about it or desire to change it. Obviously not everyone can get called in on a particular Question, but the system worked fairly for Members in that if you did not get called on a particular occasion, that would be noted and rectified subsequently. I understand how strong the attachment to self-regulation is, but making the specific and narrow change that I am recommending does not open any floodgates leading to abandoning self-regulation, which works well; far from it.

Various objections to what I am proposing have been mentioned to me beside the self-regulation point, but they are unjustified. Some have said that it would put the Speaker in an invidious position in choosing. However, if the long-established approach of the House of Commons is adopted, I cannot see why our Speaker, who has shown that he has the confidence of the House and who serves the House as a whole, could not preside over a system easily as effective as that of the Commons—particularly given the less confrontational atmosphere which prevails in this House.

Some have pointed out that the Lords is more complicated in its membership because of the number of different groupings. However, the differences between the two Houses are much lesser than they were, as the old system in the other place of one governing party and one large opposition party has changed in recent years. The SNP, as we know, is the third largest party in the Commons after the Conservatives and Labour.

[Baroness Quin]
There are also, of course, Liberal Democrat MPs and a Green MP. People have also mentioned to me the question of the size of our House and the Speaker therefore having to have quite a feat of memory to know who all the Members are. Yet the Commons has more than 600 Members and probably a higher average number of Members wanting to intervene at Question Time than we have, for various reasons. Incidentally, thinking of Members exempt from attending physically and able to participate remotely, my amendment would automatically give effect to the amendment on the Order Paper in the name of my noble friend Lord Rooker, who is asking that the Speaker and not the Leader of the House should call those participating remotely.

I can see that some technical changes might be necessary to make the system I am proposing work to best advantage. For example, it has been pointed out to me that it is not as easy to see Members from the Woolsack as it is from the Speaker's Chair in the Commons. In the Commons, the clerk can advise the Speaker of the names of Members seeking to intervene. We need to ensure that our Speaker has the support he needs, as well as ensuring that Members—wherever they are seated—can be seen and called. But I cannot believe that it is beyond the wit of the authorities of this House or the members of the Procedure and Privileges Committee, in conjunction with the Speaker, to ensure that these secondary considerations can be satisfactorily resolved, particularly in light of all the changes we have had to make during the pandemic.

A point about timing has also been raised with me. The Procedure and Privileges Committee recommends going back to the old system from the start of next week. I thought this was too soon, although I was in a minority view on the committee. But the recent emergence of the omicron variant and the consequent new health concerns that it brings reinforce my view and make me uneasy about any immediate changes which would encourage more people, not fewer, to crowd into the Chamber. Given the imminence of the Christmas Recess, it would seem sensible to me that the trial experiment I am recommending should not begin until January at the earliest.

I hope that my amendment will command some support. I believe that what I propose will ensure spontaneity, which so many Members of this House value, while allowing participation in a much fairer and more orderly way in the future. I beg to move.

Lord Rooker (Lab): My Lords, I will be brief, but I want to go slightly beyond my amendment on the Order Paper. I agree with much of what my noble friend Lady Quin has just said. I want to go back to the old system, but I did not like it because of the defects that have been put forward. That is what I really want to share.

When my noble friend Lady Amos was Leader of the House, I was her deputy and Question Time was managed. There was self-regulation, but it was managed. I have here every single Order Paper for every day that I helped to manage Question Time, and I have my notes on the bottom of where the questions came from around the House. I have the list of the different parties and groups, so that the House could see we were being fair. But from the Government Bench, you cannot see who is standing up behind you on either side—on the Cross Benches or the government side—so there is a difficulty. As the noble Baroness, Lady Boothroyd, said when we had a debate on this issue in November 2016, there is something wrong with a Minister deciding which Member questions another Minister. There is something fundamentally wrong about that.

I have looked at the issues and taken one example of what the situation was. Question Time was 30 minutes; I assume that we are going to keep it at 40 minutes, but that is not an issue. In the example I have, we had 34 supplementaries in 30 minutes. Yesterday, we had 32 supplementaries in 40 minutes. Unless it is managed, the questions and answers are too long.

I know that the Leader intervened on her brief visit today, but the fact is that while the noble Baroness, Lady Chisholm, is one of my favourite Ministers, there is supposed to be a limit on ministerial Answers of 75 words. Their Bench has to intervene to stop the long question and make sure that, within the government team, you get the short answer. If that is not done, it will become chaos and you end up with fewer questions. The idea is to get more questions to Ministers, not fewer. I can show that we were getting more questions with a partially managed system than we are getting even today.

I will make a couple of other points. I am talking about 2005 to 2007; those were the days when my noble friend Lady Amos was Leader, and I first came here in 2001. It was seen as the duty of the Leader and Deputy Leader to be at Question Time every day, because it is the only way to read the House. If you cannot read the House, you cannot really lead the House. It is pretty fundamental, to be honest, to get a sense of what is happening in the House. Then, because you are there every day, the House will accept it when you intervene to stop somebody speaking if they have gone on too long: they get their question cut in half. You may also have to cut the Minister's reply or have to decide if it is one person or another. That is a pretty fundamental issue.

We have had some changes, of course, in the last two years. The non-aligned Members, some of whom are my noble friends, and the tiny parties can forget their participation on the scale they have had with listed Questions, because it will not happen, and they had better get used to it. From a proportional point of view, they have been having a much bigger share than what their membership has justified. The House will regulate and decide, but we might as well say this now and not wait till a row afterwards: they will get fewer opportunities in going back to the old system than they had before.

We did an analysis at one time: 50% of supplementary questions were asked by 10% of the Members. Think about it: that is the shouty lot. There were occasions when Members who could rise slowly—they were here but could not get up very quickly—would tip me off before Question Time, saying: "I'd like to get in on that Question, but I can't stand quick enough." I used

to facilitate that, where it was possible—you could not always do it—because I knew that person could not stand as quickly as everybody else. So that is a factor.

We need someone to manage it, and it has got to be the Leader and Deputy Leader; I do not think it is fair to leave it to the Chief Whip. It really needs to be the same people, so they can read the House each day. It is no good coming in as strangers, because it will not be accepted then when you cut someone off in their prime.

It is not a perfect system. On one occasion, my noble friend Lady Amos said to me at the end of Question Time, "Jeff, you owe that Member an apology, and you'd better do it bloody quick." I had cut someone off; the question was too long. I found out where that Member's desk was and, at her blind side, I got on my knees and I said to Baroness Trumpington, "I'm ever so sorry." She forgave me.

There are some serious issues here, because accountability of Ministers is the key. The more supplementary questions the better, because that is important and it is what we are here for, but the way we had it today was a good example. The questions were far too long, and the answers were twice as long as what they should have been. There has got to be discipline within the Government, and it is down to the Chief Whip, the Leader and the Deputy Leader—I am sad to say that they were both here earlier on, but not now; they ought to be here now to read what the House's mood is on this. Anyway, I have said my piece.

Lord Grocott (Lab): My Lords, it is a pleasure to follow my noble friends Lady Quin and Lord Rooker, especially my noble friend Lord Rooker's trip down memory lane, when he was the Deputy Leader and I was the Chief Whip—those were the days; it was a Rolls-Royce operation then.

My purpose in putting down an amendment was to try to put the role of the Speaker into some sort of context, because these issues are not new. It is 15 years since we had a Lord Speaker first elected. Initially—I know that quite a few Members have come quite recently—we had the bizarre situation whereby the Lord Speaker was not allowed to do anything. In fact, the Lord Speaker would process in in a very important way—the public, or some members of the public, would be able to see that—and then process in here in an important way and sit down in an important way. They would then sit there looking important but doing absolutely nothing. That was the choreography of it all. It was even more absurd than that, because, for a period of years, the Speaker of the House of Lords was the only Member of the House of Lords at Question Time who could not speak. That must be a first by anyone's standards, but, slowly, things have improved.

I will not give the House all the signposts along the way, but they were tentative steps to begin with. One that came shortly after we introduced the post of Lord Speaker was that the Lord Speaker would announce when someone had retired from the House or if someone had died—there was a Statement. That had always been ignored in the past, but then that was announced by the Lord Speaker. That was a small step but then, a couple of years ago, we made quite a revolutionary step in the speed at which things progress in this House. We handed to the Lord Speaker the role of filling roles that were not done in the House at all previously.

4.30 pm

Many Members will remember well that when, for example, a Statement was to be made by a Minister, the Minister would simply turn up, whatever the business was at the time would be interrupted and they would make the Statement. There was no announcement as to what the Statement was about—no punctuation. It must have been completely baffling to anyone sitting in the Gallery as to what we were now talking about. So it was agreed that the Lord Speaker could safely do that without affront to the House.

There was another brand-new idea regarding the introduction of each individual Oral Question. It used to be done by the Clerk at the Table, which was a most bizarre situation if you think about it, but we thought it was normal at the time. Then, I am happy to say, a couple of years ago, it was decided that this role would be transferred to the Lord Speaker. These were regarded as really significant, risky changes at the time, but now we can see that they have been an improvement.

Things move so slowly, but the conclusions I take from our experience of 15 years of the role is that, first, the fears that were expressed and the prophecy at the time that the Lord Speaker in this House would end up like the Speaker in the House of Commons—I would not be surprised if we have the odd person saying that in today's discussion—have proved to be 100% wrong. The Lord Speaker in this House has nothing like the role of the Speaker in the Commons, and rightly so, in my view. We do not want endless, bogus points of order that the Speaker has to adjudicate on by saying, essentially, that they are bogus points of order—some of us have been guilty of that over the years, I must admit. All I am saying to the House is: please be calm and reassured—the horses have not been frightened. There has been no risk of the Lord Speaker acting and performing like the Speaker in the Commons. It just has not happened.

The other thing that we have learned from the last 15 years is that today's revolutionary suggestion is tomorrow's common sense. The two specific examples that I mentioned were to be reviewed after six months, as I recall. Does anybody in this Chamber—please say so in this debate—think that we should go back to the system where the Clerk at the Table and not the Lord Speaker announced each Question and where we did not announce anything when there was to be a Statement made in the House? No one wants to go back to those days. So let us please think about the amendments to the Motion before the House today.

The other lesson that I hope we have learned is on the slow growth, not in the power of the Lord Speaker but—to use the phrase that was used the last time we had a debate on this House—of the Lord Speaker acquiring "signposting" roles. That is not a bad phrase; it does not affect self-regulation in any way. What has happened, however, is that we have slowly moved from being a kind of private, almost unintelligible House to the observer who just happens to switch on or come to the Public Gallery into something much friendlier as

[Lord Grocott]
far as the public are concerned and much more intelligible. I think those are lessons that we should take from the last 15 months.

I very much hope that we will not do what is proposed. I know that the Senior Deputy Speaker has dealt with this point, but there is a reversion in what is proposed in the committee's report because, for this period of the pandemic, the Lord Speaker has been in control. He has cued in speakers, especially those acting remotely; to me, that has operated very successfully. However, now it is suggested that that power—it is a new power because we did not have remote participation in the past—should be taken away from the Lord Speaker and given to the Leader of the House. I will say no more about this issue because my noble friend Lord Rooker dealt with it so ably.

Please let us learn, after 15 years of the post, that this really is the common-sense, intelligible system that anyone who has never been to the Lords before would understand. In every other legislative Chamber in the world—indeed, at a darts club's annual general meeting—the person who processes and sits in that position, in that chair, has some influence over the proceedings of whatever club or organisation they are a member of. I strongly support both the amendments that we have spoken to so far; I very much hope that the House will support them as well.

Lord Forsyth of Drumlean (Con): My Lords, I normally agree with the noble Lord, Lord Grocott. I can see the point that he makes about the role of the chair, but I am completely confused by the amendments from the noble Baroness, Lady Quin, and the noble Lord, Lord Rooker.

The noble Lords, Lord Rooker and Lord Grocott, seem to be arguing about who will take the voices of the House—that is, whether it should be the Leader or the Lord Speaker. I can see that that is a perfectly reasonable argument, but I am not sure how what the noble Lord, Lord Grocott, said—that someone would say, "We are just being like the House of Commons"—is consistent with supporting the amendment in the name of the noble Baroness, Lady Quin, which would turn this House into the House of Commons. We would all have to stand up at Question Time and the Lord Speaker would have to choose a person. As he will well recall, there would then be arguments, as they have in the other place, about whether people were being treated fairlyThe noble Lord presented it as running like clockwork but, under the previous Speaker—I must be careful not to criticise the conduct in the other place—there was a feeling, in certain parts of the House, that things were not always fair. In order to make things fair, a clerk has to stand by the chair and advise the Speaker, who perhaps is not always entirely sure of who people are—I must say, when I go down to the other place, I look at many of the faces and I am not entirely sure—because he needs to know and to keep a running total to make sure that people are treated equally.

In introducing her amendment, which acknowledges some of the practical problems, such as the fact that one cannot necessarily see the whole of the Chamber from the Woolsack, the noble Baroness, Lady Quin, said that this was not beyond our wit. What are we going to do? Are we to have a ladder for the Lord Speaker to climb up? Are we to raise the Woolsack to accommodate this issue? Are we to have a clerk sitting on the Woolsack and indicating names? Are we to have a whole new bureaucracy created to work out who has spoken so many times?

I realise that I may be on thin ice here because I am probably thought to be part of the shouty brigade. I may be part of that 10%—I confess that—but, if we look at how our proceedings have occurred since we came back, we can see that we have the shouty brigade, as the noble Lord put it, operating when we have Statements or PNQs. I must say, I think that Ministers have been given a much harder time on those occasions. As part of the shouty brigade, under the old scheme, when I came into Questions and listened to a Minister giving a hopeless Answer, I would get up and say, "Could the Minister now answer this Question?" I would listen to someone making an unfair or inaccurate point, then get up and say, "Could the Minister confirm what has just been said?" It makes for a much more dynamic process.

Some of us are more shouty than others, and some of us have more knowledge than others. The difference between these proceedings, where we have to work out two days in advance to be on the list and all that, and the proceedings where we have what we had before, is quite marked. The difference in attendance is also quite marked; the number of people participating is down, and we get a series of questions—"hobbyhorses" would be too strong a word—which are particular to certain Members and prevent wider consideration. One of the differences between this House and the other place is that we are a bit more flexible about rules of order. Ministers can get a question on a general subject and find that suddenly the noble Lord, Lord West, has turned it into a question about the size of the Navy—and I think that is a very great strength.

If we want to change and be radical, along the lines of what the noble Baroness, Lady Quin, suggests, that needs careful consideration. It needs to be thought through carefully. The House authorities, the clerks and our leaders have done a brilliant job in enabling us to operate in these extraordinary circumstances caused by Covid, but we should not forget that the right thing to do is to return to the status quo ante. Then, if there are bright ideas about how we could make changes to the system, they should be considered carefully. But we should not get into a position where we no longer have the Bishops' Bar, a Question Time that works or the Long Table, because these things were changed as a result of Covid. We should go back to where we were, in my opinion—I suppose that makes me a bit of a conservative. If we want to make changes, we should consider them very carefully.

The two amendments from the noble Lords, Lord Rooker and Lord Grocott, are not wrecking amendments, whereas that of the noble Baroness, Lady Quin, is. It would mean that we could not go back to the old Question Time, which would be a matter of great regret.

If I could defend the Leader from the attacks against her, we should not forget—I notice that Ministers sometimes do—that when Ministers answer from that

Dispatch Box they are not answering for their department; they are answering for the Government as a whole. If we had the old system, I would be intervening and saying, "You can't say this is not your department; you are answering for the Government as a whole". The Leader of the House is the Leader of the whole House. I think it was the noble Lord, Lord Rooker, who said how ridiculous it was that a Minister decides who gets called; a Minister does not decide that—the Leader of the House decides what the will of the House is and, as the Leader, she has a duty to represent the whole House and not just the Government. That is not something we should cast aside lightly.

Lord Falconer of Thoroton (Lab): My Lords, I was incredibly struck by a point the noble Lord, Lord Forsyth, made. He said that there is a legitimate choice to be made between whether it is the Leader of the House or the Speaker who makes the choice when there is chaos. I had the privilege to sit on the Woolsack for three and a half years before the noble Baroness, Lady Hayman, took over from me and did it a lot better than I did.

The point about not being able to see things is a bit bad; ultimately, you can see what is going on from the Woolsack a lot better than you can from the Government Front Bench. In particular, you cannot see from the Government Front Bench what is going on behind you and on the Cross Benches. It is then very difficult to make judgments about how you resolve the chaos. I go back to my experience of the Leaders of the House when I started here. I am very glad to see the noble Lord, Lord Strathclyde, who is regarded—and I regard him—as the Buddha of Fairness; every time he said, "Let's have Lord X", we would all accept it. With my noble friends Lady Amos and Lord Rooker it was exactly the same.

I have the greatest admiration for the House of Lords; I genuinely like being here, and it is its quality and reasonableness that make us survive. However, watching Question Time from the Woolsack was sometimes absolutely horrible. The sharp elbows of the shouty brigade were persistently out, and if you watched the awfulness on their faces when they did not get in, it was very ugly from time to time.

4.45 pm

My own view is that we should continue to be self-regulating, and we definitely need to abolish speakers lists, as the report says. However, I would hand over to the Lord Speaker not the task that my noble friend Lady Quin suggested but the task of getting up when the chaos strikes. When that happens, the Lord Speaker is in the best position to make the judgment. I also agree very strongly with what my noble friend Lord Rooker said. It is jolly odd that the Leader of the House makes a decision about how a Minister is questioned. It would be much better if it was the Lord Speaker. The noble Lord, Lord Forsyth, brilliantly created a spectrum which is not really being suggested. The right thing to say is that when the House generates into an ugly, sharp-elbowed place, let the Lord Speaker resolve, not by decision but only by recommendation, setting out what he or she thinks the will of the House is, and express the will of the House. I would expect the House then to comply with what was suggested.

Lord Strathclyde (Con): My Lords, the noble and learned Lord kindly mentioned my name and my time as Leader, but I have nothing but the fondest memories of when he sat on the Woolsack, and indeed when my noble and learned friend Lord Mackay of Clashfern sat on the Woolsack as Lord Chancellor. Nobody thought they were irrelevant and unimportant then, and I do not think that anybody thinks that of the Lord Speaker sitting today.

This debate has descended slightly into farce, although I very much enjoyed what the noble Lord, Lord Rooker said. Surely the point is that we must return to what we had before the pandemic. Let us see how it goes, and then in six or 12 months' time, if we want to have this debate again—we have had it many times in the past—we can do so. Actually, the system of self-regulation works surprisingly well, and the law of unintended consequences would kick in if we gave that power to the Lord Speaker, as my noble friend Lord Forsyth pointed out.

It also struck me that the noble and learned Lord, Lord Falconer, was the first Member of this House to speak who was not formerly a Member of the House of Commons. It also struck me that so many former Members of the House of Commons, excluding my noble friend Lord Forsyth, missed something of the firm smack of authority from the Speaker of the House of Commons. This is a different place—a different House with different customs and different ways of doing things. I am very glad that it is, and I hope that we will support this Motion.

Baroness Garden of Frognal (LD): My Lords, I always feel rather nervous when I agree with the noble Lord, Lord Forsyth, but on this occasion I do. The noble Baroness, Lady Quin, and others mentioned the shouty match. I point out that that occurs only on the Labour and Conservative Benches.

Noble Lords: Oh!

Baroness Garden of Frognal (LD): I will explain why. The Liberal Democrats decide among themselves who will come in on each Question. If you are a little woman, you can come in if you know that your party has decreed that you are the person who will come in. We will have one or two speakers for the first and the second Questions, and so on, so we do not have shouty matches on our Benches. Can I recommend to my other colleagues around the House that they do that?

I add that in the balmy days of coalition, when I was a Minister on those Benches answering Questions, we were absolutely held to account. We were supposed to get in at least seven questions in the seven minutes, and when the noble Baroness, Lady Stowell, was the Leader, she took us to task. Each week she would count who had not got in the requisite number of questions. Of course, there was nothing we could do if the questioner went wrong, but if we were taking far too long for our answers, by golly, our feet were put to the fire. Not all the newer Ministers realise that noble Lords are far more interested in asking their questions than in listening to the answers.

Lord Mackay of Clashfern (Con): My Lords, I have never been in the House of Commons, but I have had quite a long time watching it. I am conscious that

[Lord Mackay of Clashfern]
sometimes in the past, the way in which the ultimate questioner was selected was not the best, but I think that what today we are asked to do by the report is to go back to the way we had before. I am perfectly happy if later on, once we come back to what we have done, we consider whether anything more needs to be changed, but I certainly think that it is not an appropriate time to make a change of this sort when we are just coming back to the old system for the first time.

Another matter that has occurred to me is that we have all been through a very serious experience as a result of the pandemic. Who knows, that may have affected the so-called shouting crowd. I hope we will all learn to stop the shouting and extend courtesy. I believe in the very good advice,

"in honour preferring one another."

If that system operated, we would not need anybody to pick their number.

I have to say something about the practical issue. With a House of 800 and more, it is quite difficult for anyone, even one with the skill of the present Lord Speaker, to know everybody. This business of the people who want to shout getting going is urgent, and unless you know everybody who is here, you cannot select who is the fair one to call. My strong view is that we should not change anything, except go back to where we were before, until we have had a chance to see whether the shouting mob, if that is what we call them, have changed their behaviour and been chastened by the experience we have had.

I venture to think that many of us will not wish to be involved in the shouting mechanism. I have never taken part in that—shouting is not, on the whole, my way of life—but I think there is a very good chance that people will realise that we have got back, wonderfully, to what we were before and that now we will show it to be the best possible way.

Lord Blunkett (Lab): My Lords, it is always a pleasure to follow the noble and learned Lord, Lord Mackay of Clashfern, but I cannot help but reflect for a moment on the self-regulation of the Liberal Democrats, which is obviously the firm smack that was referred to by the noble Lord, Lord Strathclyde. By the way, you have to have gone to the right school to really appreciate the firm smack. I just wish the Liberal Democrats would carry it a little further into how long their Members speak, particularly when asking questions.

I say to my noble friend Lord Grocott that I really appreciated his anecdote about the early days of the Lord Speakership and the ceremonial of moving to the Woolsack and having very little else to do. It reminded me of one or two Permanent Secretaries who hoped that their Ministers would adhere to the same strictures, and too often they did. On this really serious issue, of course there is a fine line concerning the dynamic that existed under the old system. By the way, when we came back we voted on retaining the list and people putting their names in shortly in advance—not that long in advance, but shortly in advance—of the Question being taken. We voted on that, and what we are being asked to do this afternoon is to reverse something, not necessarily to go back immediately to something that already existed.

We need to reflect carefully on why the dynamic is not there. Why are not so many questions being put? It is partly because fewer people are participating in this House. The number voting is a good indication of those who are on the premises, and it has dropped quite dramatically since we came back to fully sitting sessions. The idea that, simply by going back to a free-for-all—for that is what it is, a managed free-for-all—we will suddenly have an influx of noble Members coming back to the House is delusional. We need to address issues for the future, not for the past. Is it sensible to have some rational order in which the Lord Speaker plays a significant and important part in ensuring that the world outside sees us as we wish to be seen?

I have never had any problem getting in. It is partly that I have a loud voice and partly that people are extremely thoughtful, because they realise that I do not understand who I am upsetting when I intervene, including on my own Benches. It is also partly that Members opposite appreciate just how much I understand the dilemmas of their Ministers in having to answer for government policy; that sympathy remains. Even if I could see, from this juncture or place in the House would I be able to see whether others around are seeking to get in and would I have the sensitivity to deal with that? What is so good about barging your way in, having a loud voice and intervening on the spur of the moment because somebody has upset you, rather than putting your name in because you have a serious interest in a Question? We are not dealing with that now, because it is being ruled out by the committee.

The amendment from my noble friend Lady Quin is a rational, temporary compromise to see how it would work, and I think we should give it a go. It is a compromise between a return to a complete free-for-all and continuing with the system we voted for a few months ago. Let us try not always to revert to whichever part of the past we favour, but to move forward to the future.

Lord Cormack (Con): My Lords, the problem at the moment is that there is no spontaneity at all. The function of the Lord Speaker is to read out a list of names, which he has been given and over which he has no influence at all. What then happens is as we saw this afternoon: people get up and read questions, which should not be allowed in your Lordships' House, at inordinate length and we cannot get everybody in, as we could not this afternoon. As I say, there is no spontaneity at all. I believe that the system we are being asked to go back to is very sensible.

Many is the time that one would come into the Chamber, hear a Minister say something completely unsatisfactory and feel that we want to hold his feet to the fire. That does not happen at the moment, because the Minister, whoever he or she is, can get away with parliamentary murder. That is wrong. Over the last few weeks, we have seen a contrast between the system to which we are being asked to go back and this contrived, unspontaneous, boring system.

We have had Urgent Questions, Private Notice Questions and Statements. I have not heard much shoutiness in any of those. We had a very good example with the Question from the noble Lord, Lord Fowler, on International AIDS Day today. Everybody who

wanted to get in got in and it flowed well. The people who got in were able to refer to things that others had said. They were not getting up with a pre-prepared text.

5 pm

It is very important that Question Time in your Lordships' House is spontaneous. I spent 40 years in the other place and I much enjoyed it, but I greatly value the self-regulation of your Lordships' House. I have not found it inhibiting or particularly difficult, and I have been able to say things that I perhaps would not have thought of saying because I was provoked by either a very good spontaneous question from another or a wholly unsatisfactory answer from the Minister.

I believe we should give the committee our full support. As my noble and learned friend Lord Mackay of Clashfern said a few moments ago, we can always go back to this. We are a self-regulating House, and if we decide in future to regulate ourselves differently, that is up to us, but let us accept the report, endorse its recommendations and go back next Monday to a spontaneous Question Time.

Lord Lea of Crondall (Non-Afl): My Lords, on the spontaneity, we are being asked to do a U-turn, of which I am broadly in favour, but the point made by the tablers of the amendments could also be taken into consideration. It was not the case, as the noble Lord, Lord Cormack, might feel was obvious to everybody, that there was no need for the change made two years ago. It was not made lightly; it was made because the shouting match was a major problem. Is it not possible to tweak what is being proposed? A six-month trial period has a lot of merit to it. We can have the spontaneity as long as we deal with the shouting match.

The Senior Deputy Speaker (Lord Gardiner of Kimble): My Lords, we have had a very interesting consideration by many noble Lords with very strong experiences of the development of the House.

I must be one of the few Ministers who, when I was a Minister, actively enjoyed Question Time, because the House was at its most electric and boisterous, but civilised. That is the really important point that I take from many of the comments made by noble Lords concerned about the committee's very clear majority view in its consideration of how Question Time flourishes, not just for noble Lords but for the discourse we should have. I remember looking at the newspaper and thinking, "This is going to come up today", so I always read the papers before Question Time. Indeed, if I had a fishing Question I always knew that the noble Lord, Lord West, would be there, so I had the statistics on the number of vessels at our disposal. I say to the noble Lord, Lord Rooker, that I endeavoured to be Lady Trumpington's Whip. All I can say is that one of the things I remember, and which I put to myself, was the sense and mood of the House.

We have something here that we all cherish, which is the ability for us all to make a contribution. We all come here with a voice. One of the things that we all desperately need, with which I agree and if the House agrees with the committee's report, is to see how it can be taken more actively on board that noble Lords who have a contribution to make, and for whom the sense of the House is that they should be heard, can be heard.

I pick up the point about Lady Trumpington. There was always a shout of "Trumps!" because she had something to say that was of interest and often of humour. That blend of a civilised Question Time, whereby Members are able to ensure that Ministers give a good account of themselves, their departments and Her Majesty's Government, is really what the committee was seeking in bringing back this proposal. I am, as I say, the servant of the House and whatever it decides I will do my utmost to facilitate. But there are some lessons that I take back from this.

I also want to say to the noble Lord, Lord Blunkett, which relates to my feeling the sense of the House, that he may think that he has a loud voice but my view is that he is able to ask questions and the House actively wants to hear from him. Given that sense of when a noble Lord has something important to say, the House should actively encourage hearing it because that is how we get the dynamic that is so important.

I should quickly say to the noble Baroness, Lady Quin —I think she understands this—that if her amendment were agreed, I would have to withdraw the report that the committee has brought before your Lordships because it and her amendment are contradictory. One cannot have a report seeking self-regulation but come back to a situation, if the House were to agree with her amendment, where regulation should come from the Lord Speaker and the Woolsack. I should say to the House that that would be my response, only because the committee would have to give urgent consideration to how such a view might be expressed if the noble Baroness were to press her amendment and be successful. We would need to address considerable issues of procedure and the practical implications.

I hope, however, that noble Lords will understand that all of us on the committee—indeed, the clear majority as well as those who did not share our view—have gone about our endeavour with the best intent, which is to enable noble Lords to flourish and for Question Time to flow with electricity. I was mindful of that and thought that the PNQ on HIV/AIDS was a perfect example of every noble Lord getting in and giving their experience and understanding to the House. That was also pertinent. I am obviously in the hands of the House but, for those reasons and in seeking to reply to the opinions expressed, all of which I respect, I hope that the House will understand the reasons why the committee came back with the report that it has.

Baroness Quin (Lab): My Lords, I am grateful to all those who have spoken in this debate, particularly those who said words in support of my amendment. I am also grateful to those who, although they did not agree with the amendment, at least conceded that if we revert to the old system it will be possible to reconsider how it works in practice after an interval of, say, a few months. I hope that the Senior Deputy Speaker and the committee will be responsive to the fact that there were many criticisms of the old system—criticisms that still exist. Perhaps if we accept the committee's report, we can revisit that issue within a fairly short time, particularly if it does not seem to be

[Baroness Quin]
working satisfactorily, as I suspect it will not. I may be proved wrong and I would be quite happy to be proved wrong if suddenly Question Time allows in all those who are trying to get in rather than just a few.

Having said that, and being conscious of the fact that we can come back to this decision, I sense the weight of opinion in the House. There is also the fact that the only people who can vote are those present on the estate. When we previously voted on the system, it was a full electronic vote. Given all those considerations and the tenor of the debate, I beg leave to withdraw my amendment.

Amendment to the Motion withdrawn.

Amendment to the Motion
Tabled by ***Lord Rooker***

At the end insert "but that this House regrets that the report removes from the Lord Speaker the responsibility for calling those Members who participate in proceedings remotely".

Amendment to the Motion not moved.

Amendment to the Motion
Tabled by ***Lord Grocott***

At the end insert "but that this House regrets the diminution in the role of the Lord Speaker".

Amendment to the Motion not moved.

The Deputy Speaker (Lord Brougham and Vaux): The Question is that the original Motion be agreed to. As many as are of that opinion say "Content".

Noble Lords: Content.

The Deputy Speaker (Lord Brougham and Vaux): To the contrary "Not content".

Noble Lords: Not-Content.

The Deputy Speaker (Lord Brougham and Vaux): I think the Contents have it.

Noble Lords: Not-Content!

The Deputy Speaker (Lord Brougham and Vaux): The Question will be decided by a Division. I instruct the Clerk to start the clock.

Noble Lords: Oh!

The Deputy Speaker (Lord Brougham and Vaux): I sense the feeling is that I should put the Question again. The Question is that the original Motion be agreed to. As many as are of that opinion say "Content".

Noble Lords: Content!

The Deputy Speaker (Lord Brougham and Vaux): To the contrary "Not-Content".

Noble Lords: Not-Content!

The Deputy Speaker (Lord Brougham and Vaux): I think the Contents have it.

Motion agreed.

Liaison Committee

Motion to Agree

5.11 pm

Moved by ***The Senior Deputy Speaker***

That the Report from the Select Committee *Designation of responsible committee of the House of Lords for the purposes of section 3 of the Trade Act 2021* (3rd Report, HL Paper 78) be agreed to.

The Senior Deputy Speaker (Lord Gardiner of Kimble): My Lords, in moving this Motion I will also speak to the second Liaison Committee Motion, in my name, which concerns new committee activity in 2022. [*Interruption.*] It would be courteous to those committees that I am discussing if I might be heard.

The first Motion in my name invites the House to agree that the International Relations and Defence Committee be designated as the responsible committee of the House of Lords for the purposes of Section 3 of the Trade Act 2021 and be empowered to appoint a Sub-Committee for the purposes of carrying out this work. The report briefly sets out the history of Section 3 of the Trade Act, which was added by an amendment first moved by the noble Lord, Lord Alton of Liverpool. Section 3 authorises each House to designate a responsible committee to consider whether there exist credible reports of genocide in the territory of a prospective FTA counterparty, and to report accordingly, having taken such evidence as it considers appropriate. The role and powers—

Lord Cashman (Non-Afl): Those of us who are following the business cannot hear it. I urge fellow Members to conduct their conversations, and perhaps their consternation, outside the Chamber.

Noble Lords: Hear, hear.

Lord Gardiner of Kimble: I sense the mood of the House, and I agree.

Only one committee may be designated as the responsible committee. The Liaison Committee's consideration of this matter has been informed by the views of the chairs of the International Agreements Committee and the International Relations and Defence Committee. Both have heavy existing workloads, and neither would be able to fulfil this statutory requirement without additional resource. I am most grateful to my noble friend Lady Anelay of St Johns, chair of the International Relations and Defence Committee, for agreeing that if the need arises for such scrutiny, a Sub-Committee of her committee would perform this task to fulfil the statutory requirement.

Following discussion with the noble Baroness, Lady Anelay, and the noble Baroness, Lady Hayter of Kentish Town, Chair of the International Agreements Committee, we suggested that it could be helpful for there to be a memorandum of understanding between the two committees to ensure effective and timely communication between them regarding this matter. I am pleased to report that a draft memorandum has already been prepared and is being discussed between the chairs of the two committees.

I am sure that we all hope that this will be an aspect of our committee scrutiny that will need to be used little. It is, however, right that we have the necessary arrangements in place so that scrutiny can take place in a timely way if required. I am very grateful to all those involved behind the scenes in reaching the agreement that has made this possible.

Turning to new committee activity in 2022, the three special inquiry committees which the House set up last year, together with the Covid-19 committee, have all now agreed their reports, as they were required to do by the end of November. In anticipation, in July I invited Members of the House to put forward proposals for new committees to start in January 2022. All the proposals we received have been published online.

I am, once again, very grateful to all Members of the House who put forward proposals for special inquiry committees next year. The Liaison Committee had a good range of topics to choose from, and the proposals underline the range and breadth of expertise in your Lordships' House. The committee always has a difficult task in choosing which committees to recommend, and this year was no exception. We considered all the proposals against our published set of criteria. We considered which would make best use of the knowledge and experience of Members of the House; which would complement the work of Commons departmental Select Committees; which would address areas of policy that cross departmental boundaries; and where the inquiry proposed could be capable of being confined to one year. We also took into account the balance of topics across the special inquiry committees and the work being undertaken by other committees and within government, and the feasibility of doing a topic justice in the time available to the committee.

With all those points in mind, we agreed to recommend the following proposals for three special inquiry committees, to start work in January 2022: adult social care provision, proposed by the noble Lord, Lord Laming; the Fraud Act 2006 and digital fraud, a combination of related subjects proposed by the noble Lords, Lord Vaux of Harrowden, and Lord Stevenson of Balmacara, and my noble friend Lord Young of Cookham; and, thirdly, land use in England, proposed by the noble Baroness, Lady Young of Old Scone.

Since the appointment of the first House of Lords post-legislative scrutiny committee in May 2012, the House has established a strong reputation for this relatively new aspect of its work, which plays an important part in maintaining legislative standards. Last year, in the exceptional circumstances of the Covid-19 pandemic, we paused this activity to free up resources for a special committee to scrutinise Covid-19. In doing so, we determined to resume post-legislative scrutiny as soon as possible, and I am delighted that we are now able to do so.

In selecting legislation to recommend for post-legislative scrutiny, we were conscious that hitherto, no legislation from the Department for Education had been subject to post-legislative scrutiny by a House of Lords committee. We therefore agreed to recommend a post-legislative scrutiny committee to consider the important and wide-ranging Children and Families Act 2014.

The Liaison Committee also considered a number of other requests for additional committee resources. These matters are dealt with in our report. The committee took care and time in coming to its conclusions, and I hope that your Lordships will agree that the committee's recommendations cover a wide range of subjects which will make excellent use of Members' talents and contribute to debate and policy-making in a range of topical and cross-cutting areas.

I end on the same note of gratitude with which I began. All our committees, both sessional and special inquiry committees, perform vital work on behalf of us all and, in doing so, assist the national discourse. The enthusiasm with which Members across the House approach this aspect of our work is exemplary, and the dedication of the staff who support our committees is also to be very strongly commended.

So, although we are perhaps not sufficiently so on occasion, I believe that we should all be proud of the work that our committees and their staff undertake. I beg to move.

Motion agreed.

Liaison Committee

Motion to Agree

5.20 pm

Moved by ***The Senior Deputy Speaker***

That the Report from the Select Committee *New committee activity in 2022* (4th Report, HL Paper 97) be agreed to.

Motion agreed.

Health Protection (Coronavirus, Wearing of Face Coverings) (England) Regulations 2021

Motion to Approve

5.20 pm

Moved by ***Lord Kamall***

That the Regulations laid before the House on 29 November be approved.

Relevant documents: 22nd Report from the Secondary Legislation Scrutiny Committee. Instrument not yet reported by the Joint Committee on Statutory Instruments.

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Kamall) (Con): My Lords, in moving these regulations, I will also speak to the Health Protection (Coronavirus, Restrictions) (Self-Isolation) (England) (Amendment) (No. 4) Regulations 2021.

We have always known that a worrying new variant could pose a threat to the progress that we have made as a nation. On Friday 26 November, the World Health Organization designated variant B.1.1.529, now known as omicron, as a variant of concern. I thank the Government of South Africa for their rapid identification

[Lord Kamall]
of this variant and exemplary transparency in alerting the world. Yesterday, the Secretary of State spoke with Minister Phaahla to convey this unanimous message from G7 Health Ministers and reaffirm our commitment to working together to address the global impact of the omicron variant.

Some 22 cases have been confirmed in England and Scotland, but we expect that number to rise over the coming days. Omicron has been spreading across numerous countries. Early indications show that it may be more transmissible than the delta variant, and that current vaccines may be less effective against it. It may also have an impact on the effectiveness of one of our major treatments, Ronapreve. We are therefore concerned that omicron may pose a substantial risk to public health. That is why we are taking decisive action against it to buy ourselves time and strengthen our defences while our world-leading scientists learn more about this potential threat.

Our test, trace and self-isolate system continues to be one of the key ways in which we can manage and contain the virus and protect the nation. The self-isolation regulations that we are debating today were introduced to provide a legal requirement to self-isolate for individuals who have been notified that they have tested positive for Covid-19 or are a close contact of a positive case. On 16 August, thanks to the success of the vaccine rollout, we were able to introduce a number of exemptions to self-isolation for close contacts, including for those who are fully vaccinated or under the age of 18.

Given the greater threat that may be posed by the omicron variant, we have reviewed the application of these exemptions. This latest amendment to the self-isolation regulations is targeted at helping to slow its spread. Since 4 am yesterday, all individuals notified by NHS Test and Trace or a public health official that they are a close contact of a confirmed or suspected case of the Covid-19 omicron variant will be legally required to self-isolate, regardless of their age or vaccination status. Anyone who has been notified as testing positive for Covid-19, regardless of the variant, will continue to be legally required to self-isolate.

We have also reintroduced the requirement to wear face coverings in shops, including supermarkets, banks, and close contact services such as hairdressers, on public transport, and in transport hubs. Some noble Lords may ask why face coverings are not required in hospitality venues such as cafes and pubs. I would respond that this is part of a targeted and proportionate intervention. We recognise that not everyone is able to wear a face covering. That is why health and disability exemptions will continue to apply. However, those who are able to must continue to follow the rules so that we might slow the spread of this new variant.

I stress that these measures are temporary and precautionary, and will be reviewed in three weeks, which is the period scientists say is required before it is known how the variant impacts on the effectiveness of vaccines. Ultimately, the vaccination programme, and the test, trace and isolate system continue to be our most effective way of reducing transmission, along with continuing to practise good hygiene, keeping spaces well ventilated, and wearing a face covering in enclosed or crowded spaces.

Lord Robathan (Con): Would my noble friend give way?

Baroness Chisholm of Owlpen (Con): No, let the Minister finish first.

Lord Kamall (Con): The UK Health Security Agency continues to monitor the situation closely in partnership with scientific and public health organisations across the world. Covid-19 is not going away and so we are likely to keep seeing new variants emerge. If we want to learn to live with the virus, we must follow the scientific evidence and advice and act in a proportionate and responsible way if a variant has the potential to thwart our progress. As we do this, we are taking a well-rounded view, looking not just at the impact of these measures on the virus, but on the economy, education, and non-Covid health, especially mental health. I am confident that the responses we set out today are balanced and responsible steps that are proportionate to the threat we face.

The Deputy Speaker (Lord Brougham and Vaux) (Con): I call the noble Baroness, Lady Brinton. No? I call the noble Baroness, Lady Thornton.

Baroness Thornton (Lab): I was happy to wait for the noble Baroness, Lady Brinton, to speak before me. I thank the Minister for introducing and explaining the content of these statutory instruments. As we discussed on Monday, the omicron variant is a sobering reminder that this pandemic is not over. I think we all agree that we need to act with speed to bolster our defences to keep the new variant at bay and to keep each other safe through the difficult winter period.

We on these Benches were critical of the Government's slow response to the delta variant—slow to protect our borders, slow to act to reduce transmission in the community—so we welcome swifter action regarding this variant. It is right to be acting urgently given the seriousness of the threat. While it is sad to be debating these statutory instruments after the fact again, it is definitely an improvement on discussing them after Christmas or weeks later.

Turning to the regulations and starting with the Health Protection (Coronavirus, Wearing of Face Coverings) (England) Regulations 2021—I still have a problem with all the numbers on these, but this is number 1340—as I said on Monday, it is right to reintroduce masks on public transport, in shops and other settings including banks, hairdressers and post offices for those who are not exempt. However, we believe this measure should never have been abandoned. While mask wearing in public spaces forms part of the Government's plan B, as far as we are concerned it should have been part of plan A rather than an emergency measure, as should encouraging working from home.

Now we have the issue of building confidence for compliance in the new law. The guidance will be important. When will the guidance about wearing of face masks be issued? USDAW, for example, the shopworkers union —in fact, the union I was a member of when I worked for the Co-op—said:

> "Shopworkers aren't police officers and shouldn't be expected to act like them. They're key workers who have kept our country going during these tough times. They deserve our respect."

I also congratulate my friend and Co-operative colleague Paul Gerrard, who was on "Good Morning Britain" yesterday. He said on Twitter:

"We'll make sure customers know rules & we'll help them to follow them but we won't put colleagues at risk".

The Co-op is a responsible retailer, as are most of our retailers, but they all need the Government's support. Have the guidelines been issued yet and what are the Government's plans to support retailers?

As I said, we think these regulations are too modest and will not provide the protection the Government have described. For example, you will wear your mask to go into the off-licence to get some booze, and then you will go to a party indoors where no one will be wearing a mask. If you attend the theatre, you may get a taxi to the theatre and will wear your mask, and in the theatre some of the people in the audience may be wearing a mask but some will not. Will the Minister explain the scientific justification for those differences?

5.30 pm

Anyone who has taken a journey on public transport in recent months will have seen at first hand the lack of compliance—I do not mean just the Prime Minister. From what all of us have seen on the Tube and elsewhere in our commute, it looks as if there has been an increase in compliance in the last 24 hours or so, but on Monday morning it was depressing to see how few people on the Tube were wearing masks. I am very pleased to say that the statutory instruments committee has been busy and has issued its report this afternoon. It says there is a long list of places where people must wear face coverings, as well as on public transport. It also remarks on the doubling of the fixed penalty, and says:

"The House may wish to ask the Minister to explain why some places were chosen and not others, and, because the list is complex, how members of the public will be able to understand where and when a mask must be worn."

As the Minister said, it goes on to state:

"These Regulations are due to expire at the end of 20 December 2021 which falls into the period of parliamentary recess",

so, as I said on Monday, we might need to ask the Minister how he will

"ensure that any decision to extend these Regulations is announced before the House rises."

Will that be possible?

Why do the Government not specify ventilation in these regulations? Throughout the pandemic, these Benches have called for a radical upgrade of the ventilation of public buildings, particularly schools. We know that is not something that can be done just by clicking your fingers. It is expensive and time consuming, and possibly harder to do than asking people to wear a mask, but it is a very effective intervention. Some 18 months into this pandemic, how many public buildings now have proper ventilation systems as a result of decisions taken during the pandemic?

I turn to statutory instrument 1338 regarding self-isolation. The regulations introduce new rules for self-isolation after contact with a person who is suspected to have contracted the omicron variant of the virus. The issue is, how is it suspected? It begs the question of how on earth one will know. I am keen to hear from the Minister how the decision to introduce only two-day testing and not to reintroduce pre-departure tests, which I understand the United States of America has just announced, was reached. I am keen to know the scientific basis behind that. We have heard many reports of private tests not being followed up, perhaps especially by those offering tests at the cheapest prices. What are the Government going to do to enforce this and to ensure that bringing back two-day PCR tests will be effective? We saw in the summer how frustrating they were for people who would otherwise have been able to avoid self-isolation by being vaccinated. They will now have to stay at home for the full period. However, as we now wait to see how our vaccines and antivirals respond to the new variant, it is right that we prioritise caution and seek to limit community transmission as much as possible.

Perhaps the Minister can clarify why the Government have flatly contradicted the Covid guidance from one of their most senior health officials that people should not socialise before Christmas unless it is necessary. Dr Jenny Harries, chief executive of the UK Health Security Agency, said during an interview with the BBC on Tuesday morning—I heard it on the radio—that unnecessary gatherings in the festive period should not go ahead. She said that people can do their bit to halt the spread of Covid in the next few weeks by reducing social contact. She warned that omicron is "more highly transmissible" and could have

"a significant impact on our hospitals … our behaviours in winter and particularly around Christmas we tend to socialise more so I think all of those will need to be taken into account."

When asked if Dr Harries's view was shared by Boris Johnson, the PM's spokesman told reporters:

"No. Our advice to the public is as set out at the weekend. We have put advice out on face coverings and on inward travellers ... Beyond that we haven't set out any further guidance to the public."

Asked if people should follow what he was saying or what Dr Harries was saying, the spokesman said:

"The public should follow the guidance as set out by the Government and indeed the Prime Minister at the weekend."

The least I can say about that is that it is confusing. I would like to have the Minister's view.

Finally, I shall say something about people who are very vulnerable. The noble Baroness, Lady Brinton, raises this time and again, and the Government need to take it very seriously. Even before the discovery of the new variant, people with underlying health conditions were being widely ignored, despite the fact that their case numbers remained high. Months after the official shielding programme ended, the Office for National Statistics figures from October showed that almost one in four clinically extremely vulnerable people were still shielding and that 68% were leaving the house but taking extreme extra precautions. Ministers have only made matters worse with this. Over the last few months, the Government have removed many measures that would have helped clinically vulnerable people. In England, the legal requirement to wear a mask ended as far back as July, apart from in healthcare settings and care homes, and once furlough ended in October, clinically vulnerable people had fewer options to shield themselves. Many were sent back to offices or public-facing roles without the legal right to work from home or

[Baroness Thornton]
to be paid if they could not. If the Minister cannot answer the questions about the guidelines and what should happen to clinically vulnerable people, I am very happy for him to write to me and put the answer in the Library.

Baroness Brinton (LD) [V]: My Lords, I thank the Minister for introducing these two statutory instruments retrospectively reintroducing face masks and rules for self-isolation. From these Benches, we repeat our thanks to the scientists in South Africa for their early-warning system and their excellent genomic sequencing of omicron. I also thank the Secondary Legislation Scrutiny Committee for its swift advice to your Lordships' House.

The Health Protection (Coronavirus, Wearing of Face Coverings) (England) Regulations 2021 set out clearly the doubling of fines if somebody fails to comply without a reasonable excuse, up to a maximum of £6,400. When these regulations were first introduced last year, very few fines were issued. Face coverings are not required everywhere, which makes it even harder for this to be literally policed, as in the police intervening and issuing fines. I repeat the questions that the Secondary Legislation Scrutiny Committee asked: why were some places chosen and not others and, because the list is complex, how on earth will members of the public be able to understand where and when a mask must be worn? We completely agree with the Secondary Legislation Scrutiny Committee. The Minister knows that I have already raised this with him this week, and I heard his attempt in Grand Committee to defend the absolute nonsense about sitting in theatres versus walking around a shop or even sitting in a café in a shop, where one would, I presume, be required to wear a mask.

I also raised with him the vexed issue of local government, where since January councils have by law from central government had to meet in person, although many of them would like to return to virtual arrangements when there is a massive rise in cases. Cases are surging in certain parts of the country, and it is just extraordinary that the Government dictate to local government how it can meet. I raised this with the Minister yesterday and was grateful for his response, but I raise it again after a plea overnight from a councillor in Devon, where cases are rising very fast at the moment.

This regulation is due to expire on 20 December. Once again today, we are seeing emergency legislation to protect the public laid after it was enacted, but in this case understandably. However, it is set to expire at a point when not only will we have just risen for recess but the emerging facts of the omicron variant are only just going to be understood. The scientists say that they need a good three weeks to really understand this, so why were these regulations not set for expiry after 60, or even 90, days? It is comparatively easy, as we saw yesterday in Grand Committee, for your Lordships' House to meet for early expiration of a regulation. It is much harder to justify setting this one for such a short period. It is treating Parliament with contempt as well.

I am really sorry to hear that Co-operative stores and Iceland have already made decisions not to follow the face mask guidance. It points to a big hole in the system that we from these Benches have repeatedly raised: which is how the regulations can be policed. The real answer, as the noble Baroness, Lady Thornton, outlined, remains front-line retail staff, often low paid, or security staff, who do not have the authority of the police. The Co-op has rightly said that it will not put its staff at risk of attack from customers, which it says happens to tens of staff per day across the country.

This regulation is the stick, but we need a carrot too. We need to see on a daily basis senior Ministers wearing masks. I understand that the Leader of the House of Commons was finally seen wearing a mask in the Chamber today, so I presume fraternal conviviality is no longer going to protect Members on the Conservative Benches from Covid. But both his and the Prime Minister's frankly appalling record of not wearing masks has not helped the wider public to be encouraged to take precautions themselves. By the way, I note that the Government have today confirmed that it is still essential for everyone to wear face masks in hospitals, all the time.

It was concerning that yesterday in a No. 10 press conference reference was made to a case of omicron in Croydon, but unfortunately the director of public health and the local council in Croydon had not been notified before it was made public. That would have been helpful, because they had lots of inquiries about what on earth was happening. When will this sort of information be joined up? It is vital that the experts in each area are informed before the wider public about what is going on, so that they can set up systems to reassure and support their public.

I echo the points made by the noble Baroness, Lady Thornton. I also heard Jenny Harries on the "Today" programme yesterday, and I thought she answered very sensibly. She has asked us repeatedly over the past 20 months to consider risk when we go into any environment. She was clear that, in winter and especially at Christmas, moving into an environment, probably mostly inside and cold, where people huddle together is not ideal and people need to think about whether they go to their usual social events. How extraordinary to have that flatly contradicted by the Prime Minister. Perhaps he needs to get a grip. That is particularly relevant in light of the other story today, about the Christmas parties at No. 10 last year after London had been asked to go into tier 3—effective lockdown.

I also ask the Minister about air filtration units for schools—and I do mean air filtration units and not CO_2 monitors. This is in light of an innovative air cleaning device developed by Cambridge University and Addenbrooke's Hospital in Cambridge. When they placed the relatively inexpensive air filtration machine in Covid-19 wards, it removed almost all traces of airborne SARS-CoV-2. It is a very interesting article.

On the self-isolation regulations, from these Benches we just repeat our regular plea. This Government have chosen not to pay low-paid workers a proper rate when they are asked to self-isolate. Those people are doing a public duty. They may be required by law to do it, but to offer them sick pay for that period does not reflect the duty they are doing. We know that it really matters for some people on zero-hours contracts, and that some people have not been coming forward even for tests when they suspect they have Covid because they do not know how they would put food on the table if they had to isolate for 10 days.

We are glad that the vaccination rate paid to GPs has been increased after their pleadings, but how on earth does this reduce the other pressures on primary care? I note that NHS leaders have today called for support from the military on vaccines. Running in parallel with all this is the phenomenal pressure that other NHS services are under, from the crisis in ambulance services and A&E that we discussed earlier in your Lordships' House to delayed discharges. As the Minister knows—I am really grateful for the comments of the noble Baroness, Lady Thornton—people who are clinically extremely vulnerable, especially the severely clinically extremely vulnerable and their families, were already worried about this winter, but they have been shaken further by the uncertainty surrounding the new variant.

5.45 pm

Earlier in the year, on 15 September, the Government ended the shielding programme, as it was believed that it was no longer necessary. However, according to the Office for National Statistics, as many as one in five of those previously shielding have continued to do so. Many feel that, after this date, they were left without any support and guidance, and many—perhaps a quarter—of the clinically extremely vulnerable who were eligible for it have still not had their third primary dose because of the confusion that persists around the third primary dose and the booster jabs. So I repeat my request to the Minister—which he agreed to, but I have heard nothing—to confirm when we can meet to discuss this with Blood Cancer UK and the Anthony Nolan trust, because this is now an emergency. If the noble Baroness, Lady Thornton, would like to join the meeting, I would be delighted if she were able to do so.

Everything is set for three weeks' time. Christmas is coming towards us. I am really concerned that the tone from Ministers in the last 24 hours is that everything is going to be lifted again for Christmas, when we need to wait for the scientific advice. So can the Minister please send the message back that we should be cautious until we actually know and understand what omicron does and how dangerous it is?

Baroness Neville-Rolfe (Con): My Lords, it is a pleasure and a surprise, as we are discussing an SI, to follow the noble Baronesses, Lady Thornton and Lady Brinton. Although I do not agree with much, I do agree that it is very helpful that we are discussing these SIs so quickly, so I thank my noble friend the Minister. I also agree that we must not put retail workers at risk, as we are in the process of discussing in our debates on the police Bill, and that air filtration systems can be valuable in many settings.

The background to this debate is that we have taken major steps to limit the impact of Covid-19, with 115 million vaccine doses now injected in arms across the country. The more vulnerable and elderly have received boosters now totalling over 18 million, and the race is on to double this quickly. This has been well done and we must all be grateful.

We now face the challenge of the omicron—I am told that is stressed like omega, if you studied Greek, which I did not—and I rise to offer modest support for, but also some concerns about, the new regulations on masks. In particular, I agree that it is right to limit their compulsory scope to transport, shops and services such as hairdressers and banks. I am less happy with the regulation on self-isolation, which is potentially much more onerous and lasts, as we have heard, not for three weeks but until 24 March. I have some questions for my noble friend the Minister.

First, how will all this end? What virulence criteria in relation to omicron will lead to the removal of the restrictions? Can this be done at speed like their imposition or, as we have seen before, will such regulations linger on?

Second—and I have a family interest here—can there be an opt-out from travel quarantine testing for those who have recently recovered from Covid and registered as such? This is very important for children at school, where the virus continues to spread fast. I know that the travel PCR requirements are not covered in these regulations, but I hope that the Minister will answer anyway and make sure that further regulations are clear. There is so much confusion.

I would like to record my belief that both sets of regulatory proposals have a serious defect: we do not have the benefit of an impact assessment or anything like it. It may be technically true that there is an exemption for rules lasting less than a year, but it is a highly unsatisfactory state of affairs. An assessment of the cost and economic impact of such measures is essential to good government and the future well-being of our country, and should inform all decisions such as these. Take the first instrument on masks; the analysis in Paragraph 12 of the Explanatory Memorandum is embarrassingly inadequate and does not even mention small business. What studies have the Government conducted into children wearing masks, the negative and the positive? What is the evidence that they will help with the infectious omicron variant?

Let us consider the second set of regulations. The new self-isolation controls will have a huge impact on work, schools, health, social care and other services, as case numbers rise and the "pingdemic" of last summer returns. They also deal a body blow to the already struggling transport industry, with billions wiped off its value since last week. Do the Government prepare proper assessments to inform their actions? I hope they do; they should summarise or publish them for debates such as these. Doing so would serve to limit overreaction. The last couple of days have been full of rumours of possible overreactions, such as masks being required in theatres and restaurants, and school plays and Christmas parties cancelled. Government spokesmen should be calming matters, not encouraging people to close things down.

We have been partly saved by vaccination, but we have encountered needless damage across the economy and society over the last two years, because of our lack of attention to economics. Saturday's BBC coverage helped me to understand why. At his press conference, the Prime Minister was sensible and serious, but the lead commentary afterwards came from a member of one of the SAGE committees, Susan Michie. She is a professor of health psychology at UCL and a well-known communist, and she wanted to go much further. Why are there a number of psychologists on SAGE and not economists—although I think there is a leading statistician? Indeed, you might ask why communists are involved at all.

[Baroness Neville-Rolfe]

On my final point, perhaps my noble friend could say whether he and the Secretary of State, both of whom are more aware than their predecessors of the importance of growth and economics to the well-being of everyone in the country, might look at the composition of SAGE and add an economist or two, now it looks as though, sadly, Covid is continuing to be more extensive than we all hoped.

Baroness Noakes (Con): My Lords, I first support what my noble friend Lady Neville-Rolfe said about impact assessments. In fact, I have tabled a Motion on a later coronavirus order regretting the lack of impact statements, which I look forward to debating with the Minister in due course.

I start by recording what Reuters reported today from a World Health Organization official. He said that, to date, most omicron cases have been "mild" and that there is no evidence yet of reduced vaccine effectiveness. On that basis, we may find that these orders have been overhasty and that we do not see an extension of them.

I will concentrate my remarks on the mask-wearing order, because I continue to believe that there is insufficient scientific evidence on which to base requirements for people to wear masks. Much attention was paid, a week or so ago, to a meta-analysis that was published in the *British Medical Journal*. Its headline was that masks showed a 53% cut in the transmission of infection. When one looks at the detail of that meta-analysis, the case falls apart. Of the large number of studies included, only six related to mask wearing, of which two had a critical and four had a moderate element of bias. Of those four, only one was a properly randomised trial and its results were inconclusive. There is no evidence that scientifically supports the wearing of masks.

I will not oppose this order and I hope it runs out in a few weeks' time, but I hope that the Minister ensures that the right messaging is put out. I have heard that the noble Baronesses, Lady Thornton and Lady Brinton, want it extended, including to theatres. They may like to know that this is already happening. I reveal one of my hobbies by saying that, yesterday, I received emails from both the English National Opera and the Royal Opera House telling me that, as of yesterday, they were mandating masks. I have to put up with a mask for the sake of listening to Wagner, this weekend, but the messaging that this order relates only to shops, transport and the close personal services that were referred to earlier is not out there.

In addition, when I got back to my apartment block last night, the management company had splattered the place with "Masks now required". I challenged that today and of course there is no legal basis for that prohibition, so I have asked it to remove or alter the messaging. Unless the Government give clear messages to the public at large that this is a very limited measure for very good reason, and there is no need for it to be extended further, it will carry on spreading like some kind of virus throughout all social activity. We must not let that happen.

Lord Robathan (Con): My Lords, I would like to add to the words of my noble friends Lady Noakes and Lady Neville-Rolfe. I am afraid the Government have got themselves in a muddle over this. This is a "worrying new variant", as the Minister rightly said, and I think he quotes from the WHO. But while sitting here, I got an alert from the news that said exactly as my noble friend Lady Noakes just said:

> "Most Omicron cases are 'mild' and there's no evidence to suggest vaccines may be less effective against the variant, says WHO official",

speaking on behalf of the organisation. He specifically said that people should

> "apply an evidence-informed and risk-based approach"

to travel measures and that

> "Blanket travel bans will not prevent the … spread"

of the new omicron Covid variant.

We should look at the evidence, not opinions. What is the number of deaths that this or Covid are causing? I am going to yet another memorial service tomorrow for a Member of this House who died of cancer, not Covid. I think I have been to six memorial services so far this year of people who have died from cancer—nobody from Covid. All Peers should ask themselves how many people they know who have died from Covid under the age of 85.

We need to show some understanding of risk and should not be scaring people. As my noble friend Lady Noakes said, we are just scaring people into running around like headless chickens, worried about what on earth this variant means. I regret to say that I think the Government are trying to look decisive after what has not been an extremely good month or so for them. They are responding to the accusations of the Opposition that they must be more decisive and take firm action. We are keeping people scared, not keeping them safe. We are damaging children's education and hugely damaging the economy, and cancer waiting lists are stretching. I heard today that waiting lists for hospital treatment may extend to 12 million by the end of next year. This is shocking.

My noble friend Lady Noakes asked to see the proof about face coverings, because we do not actually know if they work. Of course surgical masks work, but these flimsy paper or cardboard things we are all wearing are not effective. Since, according to the noble Baroness, Lady Brinton, we have to wait for the scientific advice, let us listen to the advice that Jenny Harries gave us in March last year that, in fact, if you wear a face mask you are more likely to increase the severity of any Covid you have, because you would trap all the germs and keep them there. As late as August last year, she was saying that she did not think there was any point in us wearing face masks.

6 pm

I urge the Government not to listen to those, particularly from the Opposition, who want an authoritarian crackdown and would lock down society for ever, as far as I can work out, making for a docile and compliant population. We heard from the noble Baroness, Lady Brinton, that she wants everybody fined and that it was terribly good news that we are going to double the amount of fines. I think that most fines imposed during this pandemic have actually been overturned. We need to treat the people of the United Kingdom with respect, realise that they are capable of making their own decisions and not treat them with contempt.

Lastly, after 18 months-plus of restrictions, I ask everybody in this Chamber, and the Minister in particular: have the restrictions worked? In May of last year, there had allegedly been 250,000 cases; there have now been some 10 million. What did the restrictions achieve? The vaccines have been fantastic but the restrictions have not achieved very much, except perhaps occasionally to slow down the spread. On that note I will sit down, except to say to my noble friend: this is not a good policy.

Baroness Blower (Lab): My Lords, like the noble Baroness, Lady Noakes, I like to spend an evening at the Royal Opera House. In fact, I have been a couple of times in the past three weeks and noticed from where I was sitting that enormous numbers of people were wearing masks—including one John Major, sitting just in front of me. I cannot see that there is any problem with sitting in the Royal Opera House and wearing a mask. In the area where I sat, there was very high compliance. It is not even just that there have been these announcements. The fact is that there was an announcement from Antonio Pappano every evening before the performance, encouraging people to wear masks. My own view is that it would have been much better if we had never stopped people wearing masks. We would not then have to start every time from a lower base to encourage people to take it up. The noble Lord, Lord Robathan, said that it may have stopped transmission on some occasions. Is that not good? That is what we want to happen.

My second point is about schools. The fact is that schools are not generally well-ventilated buildings. My daughter is a year 4 primary schoolteacher and, for the whole of last year, she had to teach with the windows open. This year, they have come back and again had to do so. It is not easy for a child to learn in a very cold classroom where they have to wear their coats, hats and gloves. It would be so much better if we had managed to get in a programme to bring in ventilation or some kind of air filtration scheme. Although there was a big concern about whether young people would be oppositional to the idea of wearing masks, people I know who are teachers—I do know a great many of them—have found that when you have the discussion with young people, they absolutely understand why it is important to wear masks: it is about protecting themselves, each other and their grandparents, who they may see out of school.

While a great number of things have been done too slowly, the reinstitution of wearing masks has been done in a speedy way. I hope it will continue beyond 20 December.

Baroness Altmann (Con): My Lords, on a personal level, I do not have a problem with wearing a mask. I understand that the Government are in a difficult position, because they are almost damned if they do and damned if they do not on issues of this nature. My concern is that we started off following the science but now seem to be anticipating what the science might show, in the absence of evidence that this omicron variant is any more deadly than previous variants. We seem to be ignoring the fact that, unlike when delta started, so much of the population is now vaccinated; they are therefore protected. The Government should be given enormous credit for the vaccination programme and the booster programme.

Looking at the evidence from the delta variant, as the virus progressed it became much more contagious, as all viruses tend to, but it was much less deadly. The people for whom it was particularly dangerous were those who were unvaccinated. Since we have given everybody who could have an opportunity to be vaccinated the chance to do so, and that some people have—for reasons that they know best—refused to accept the vaccine, it seems there are implications for the wider public in continuing to try to protect those people. I recognise that there are clinically vulnerable people who cannot be vaccinated, which is an issue in itself. But I am seriously concerned about wider society, particularly as the self-isolation rules will not run out until next March and have a psychologically damaging impact on society. They frighten the public and could cause, I believe, significantly higher numbers of deaths from loneliness, mental ill-health and illnesses such as cancer, which the public may be too frightened to see their doctor about, or for which GPs may now again say that they cannot see people face to face, and therefore miss the symptoms.

I hope that this mask-wearing SI will be lifted at the end of the three weeks. We need to trust the public. I agree that we need to help people understand the risks and that they need to consider them, but it is perfectly valid for people to decide that they do not consider the risks too large to stop them seeing friends and family. I have significant concerns about mandating and fining them for not doing things, when we do not have evidence to suggest those are as damaging to the public as we previously considered them to be.

Baroness Tyler of Enfield (LD): My Lords, I would like to make a few comments about the mask-wearing regulations, which I strongly support while feeling that wearing masks should never have been abandoned in England. It is with great sadness that I have to tell the noble Lord, Lord Robathan, that at exactly this time last year I attended the funeral of a friend of mine, the exact same age as me, who died from Covid. I wonder what the families of the over 1,000 people dying from Covid each week would think if they were listening to our debate now.

The questions I would like to ask the Minister are primarily about compliance and enforcement. When I got on the Tube yesterday, it was clear to me that the message had not got across to quite a few people. I was concerned that there was no one standing at the Tube station to point out to people that it was now a legal requirement and that there were no notices making it clear that that was so, rather than a condition of passage. Those things are different. Can the Minister please explain the responsibilities for enforcement, particularly on public transport, as between, for example, Transport for London staff and the police or transport police?

It is going to be hard to get the messaging back on track after people have been told that they did not need to wear masks; now they are being told they need to again. There is a good reason for it but the bit I have

[Baroness Tyler of Enfield]
not heard so far in the debate today is that mask-wearing is primarily about protecting other people. Yes, I believe scientific evidence says that it confers a degree of protection on the wearer but it is primarily about protecting others—and we do not know the medical vulnerabilities and risks of the people we sit next to, be it in this Chamber or on public transport. That is the main reason I feel mask-wearing should never have been abandoned.

I also want to ask the Minister about people who genuinely have medical exemptions. Clearly, there are people who do. Yesterday on the Tube, I was standing next to a lady who was wearing a green lanyard and a badge; personally, I found that very helpful. She was making it clear that she was exempt. To help with the compliance issue at the moment, what plans might the Government have to encourage people who are genuinely medically exempt to have badges, lanyards or exemption cards, or something like that? However, it was clear to me that a number of people not wearing masks on the Tube, yesterday and today, were certainly not genuinely exempt.

Lord Cormack (Con): My Lords, I will intervene briefly. I do not like retrospective legislation, and even though these regulations have been introduced much more quickly than some previous ones, we should have brought them in a couple of days ago. Parliament should approve regulations before they are issued. I do not take exactly the same line as my noble friend Lady Altmann, although I generally find myself in great sympathy and agreement with her, because I think we are all tackling the unknown. Nobody knows just how severe this new variant is or how effective the vaccines—I am triple-jabbed—will be. We must bear that in mind.

I make a suggestion which I made a year or more ago, which I think has some merit. Your Lordships' House and the other place have found our agenda dominated to a large degree by Covid and the various regulations that have been brought in to try to deal with it. I suggested then, and repeat now, that we must accept that we will be living with Covid for a very long time. I have accepted it by coming to your Lordships' House in person almost throughout the whole pandemic, partly because I hate dealing with Zoom and Microsoft Teams, but also because I like the human contact here. I also believe that, if we are Members, we have a certain duty to be here.

It would help enormously if we could have a Joint Committee of both Houses sitting in almost continuous session, where we could discuss proposals, assess evidence and not disrupt the ordinary and important business of the House. There is a parallel, in a way, with how waiting lists have been added to in the National Health Service and people have been put under enormous strain because of Covid. We would be well advised to try to have continuous parliamentary supervision and monitoring of what the Government propose in the light of all developments. I put that suggestion forward once again.

I have another specific question which I would be grateful if my noble friend would answer. I was contacted a few days ago by someone living in south-west London who is unable to have a vaccine for medical reasons. There are such people. He went to inquire of his general practitioner about the medicine that is now being developed—I am terribly sorry; I am having a senior moment and its name escapes me as I stand before your Lordships. My noble friend referred to it and will know what I am talking about. The general practitioner in question had no knowledge of it, or of where my friend could get it.

I would like an assurance from my noble friend that there is a proper dissemination of information so that doctors who are approached by those who cannot have the vaccine for genuine medical reasons can be informed. I mean genuine medical reasons, as I was one of those, as the noble Baroness, Lady Thornton, knows, who called time and again for compulsory vaccination of those working in care homes. She is kindly nodding approval. I felt the same about those working in the National Health Service. Those who are in contact with the most vulnerable should be obliged to have protection.

6.15 pm

We must all be understanding of the repeated dilemmas facing the Government. We all have cause to be enormously grateful and appreciative for the rollout of the vaccine. It is very important that we heed the words of Gordon Brown and do all we can to get the vaccine around the world, because in protecting others we are protecting ourselves. I would value my noble friend's reaction to or consideration of the creation of some form of continuous parliamentary monitor. It is not just retrospective legislation that concerns me, but the fact that on 21 December both Houses will have risen and the Government will make an arbitrary decision. I would rather they had this particular protection in force until we come back. Something must be done to ensure that the Government are more answerable to Parliament than they have been.

Baroness Bennett of Manor Castle (GP): My Lords, the noble Baroness, Lady Thornton, importantly said that the pandemic is not over. I think sometimes, listening to your Lordships' House, that some people have not accepted that. Your Lordships' House, based on its loudest voices, also appeared to have decided to act as though it has not in the procedural decision we made earlier.

On the mask-wearing regulations, I go back to Monday's repeated Statement on Covid. At the time, on Twitter the hashtag "COVIDisAirborne" was trending. As far as I could trace through the mysteries of Twitter, one of its origins was Dr Kimberly Prather, chair of atmospheric chemistry at the National Academy of Sciences in the US. I would like an assurance from the Minister that the Government understand that fact, as expressed by that hashtag. A number of contributors to these debates have indicated this, particularly the noble Baroness, Lady Blower, and others addressing ventilation in schools, and both Front-Bench speakers.

Why does the mask mandate not cover cinemas and theatres? In his response on Monday's Statement, the Minister said that it does not apply in hospitality venues, restaurants and pubs because people eat and drink there, so they are taking their masks on and off.

That surely does not apply to cinemas and theatres. I still do not believe we have heard from the Minister the reason why it does not apply to those two places, with their obvious general lack of ventilation and the fact that people sit together for hours. Maybe they are spaced out; I have heard Members of your Lordships' House make the point that, "It's all right, I am sitting away from people". Covid is airborne. It circulates in the air. I would love the Minister to clearly acknowledge that fact, because I do not think the Government are acting as if they do.

Also on these regulations, why do we not have a "work from home if possible" ruling in the current state of considerable uncertainty? Many have been doing it over many months; they are set up for it; it is perfectly possible; it reduces the risk and danger at a point when we really do not know how great it might be.

Finally, there have been many points in this debate I might have liked to respond to, but I will pick up just one. I ask the Minister to acknowledge how much we now rely on medical and social science experts, many of whom have worked for many hours and months above and beyond the call of duty. Will he join me in regretting that Members of your Lordships' House should choose to attack individual experts who choose to contribute to public life and exercise their right to engage in political debate, and acknowledge that that is not an appropriate way to treat people contributing to public life?

Noble Lords: You're on!

Lord Kamall (Con): I apologise to noble Lords—I was looking forward to so many more contributions. I hope noble Lords will forgive me for enjoying the debate rather too much. I apologise to my noble friend Lord Greenhalgh, who has been waiting for ages, and to my noble friend behind me who says he has to go to the theatre. I hope he will wear his mask when he goes to the theatre.

I thank all noble Lords for their contributions to today's debate. What is really important and what it shows is that we are still debating issues and contesting the science. Clearly there is a range of views across the House on the issues raised. There is no consensus on this. That is really interesting in the way it shows that we can debate these issues and question the statistics. I will turn to some of the points noble Lords made, particularly about some of the statistics but also on the regulations.

I hope noble Lords will forgive me if I do not answer every single question and refer to every single noble Lord who asked them—unless noble Lords want to stay here a bit longer and my noble friend Lord Greenhalgh can go and have another teacake or something while he is waiting.

Lord Robathan (Con): That's a bit much!

Lord Kamall (Con): Sorry, was that offensive? I apologise for any offence caused to my noble friend. I just assumed that because I like teacakes, my noble friend also does.

I will start with some of the questions. On the question of how many people have been helped by some of these financial services, as of 17 November 2021, local authorities have reported 362,573 successful claims since the start of the scheme, totalling £181 million in test and trace support systems.

Despite the easing of the restrictions at step 4 of the road map, the Government have continued to recommend that face coverings are worn in crowded and enclosed spaces. We accept that there is wide support for reintroducing mandatory face coverings, but we have always tried to balance these issues. As I said in previous debates, we look at a number of factors, not only medical but economic and social. Also, within health itself, many mental health experts are very concerned that we might go for more lockdowns and about some of the measures that a number of noble Lords have mentioned.

As we saw in the debate, there are noble Lords who believe that we have gone too far and noble Lords who feel that we have not gone far enough unless we effectively enter a second lockdown. That shows the range of views here and the difficulty, as my noble friend, Lady Altmann, said, that the Government are damned if they do, damned if they do not, but we accept that.

So, do face masks actually work? This is where there is still a debate. I thank my noble friend Lady Noakes for pointing out the article by Professor Simon Wood, who is professor of statistics at the University of Edinburgh, in which he analysed the *BMJ* paper. It is in effect a meta-analysis. A number of newspapers have taken a line saying that wearing a mask cuts Covid by 53%. I encourage noble Lords to read the article, in which he takes apart the statistics as a statistician and looks at, as those who have done statistics will understand, whether we have a significant number of samples to make it statistically sound. In addition, Professor Naismith of Oxford University has been quoted as saying that

"the Scottish and English approach to masking, although formally different since July, has made no meaningful difference to delta."

Once again we see that there is a whole range of views, but we have listened to those views. Because we do not yet know enough about this variant, we will continue to review the data. For example, some say that it is very mild in South Africa so we should not be overly concerned about it, but we also have to remember that South Africa has a different demographic in terms of younger people. We know that when the virus first struck it disproportionately affected older people—as my noble friend Lord Robathan said, people aged over 85. On the balance of the data at the moment, we believe that wearing face masks works but we have always been very careful to make sure that it is proportionate where we do it.

On the expiry of some of these measures, as the Prime Minister said on Saturday, all the provisions that have been voted on will be reviewed in three weeks. They are necessary and proportionate while we learn more. I refer to the economics Nobel laureate Friedrich Hayek, who talked about humans having limited knowledge. He talked about the conceit of knowledge. The way to understand a lot of complex problems is to allow the discovery process to take hold and to look at what we can learn from that process.

[Lord Kamall]
We should be very careful not to imagine that we have total knowledge. What we have to do is assess it proportionately.

It is our hope that these regulations will no longer be necessary in three weeks' time and that we can return to the system that we lived under last week, but in the event that we need more time to understand the effect of the variant, or that the data shows that we need to take a different approach that requires new regulations, the House will return to Parliament ahead of the Christmas Recess for a debate and vote on the regulations ahead of their coming into force.

On regulations expiring, the international travel regulations will expire at the end of 16 May 2022. The face covering regulations will expire, unless extended, at the end of 20 December 2021. The self-isolation regulations at the moment expire at the end of 24 March 2022, but we will continue to review the data. Almost daily the data is being reviewed and conversations are going on. We will also continue to review the data on the new variant and we hope to update Parliament on the review in the week commencing 13 December.

A number of noble Lords asked about facilities. We are told that setting up dedicated testing facilities at border entry points such as airports is logistically difficult at the moment, and risks delays to passenger journeys and operations. Given the turnaround for a PCR test, passengers would still have to travel to their home or the place they are staying and isolate there before receiving a result. The Government are taking a measured and proportionate response. We want to try to protect the UK from omicron while allowing continued safe travel.

A number of references were made to points made by Dr Jenny Harries. As the Prime Minster said, the guidance remains the same as the measures that were in place to fight delta. We have now brought in tougher measures, but we continue to take advice from a number of experts. Individual experts are free to give their viewpoint but we look at the balance—some of it medical, some of it clinical, but also economic and social factors—and getting that proportionate.

Baroness Thornton (Lab): I need to ask the Minister about the fact that our most senior adviser on these matters gave advice that was then completely denied by No. 10 and the Government. That will at least cause confusion. It is not a question of balancing this and that; Jenny Harries was very clear in her advice about what she thought should happen. It was quite the opposite to what the Prime Minister said should happen. The Minister needs to acknowledge that that will cause confusion.

Lord Kamall (Con): I thank the noble Baroness for raising the point, but it depends on how it is reported. The real issue here is that a number of different experts are advising. Of course, you can pick and choose which expert you decide to listen to. A few weeks ago, noble Lords were picking up on comments made by the NHS Confederation. That is not a scientific body, but noble Lords claimed that it showed that we need to lock down. It is very easy to pick and choose your experts, but we continue to listen to a wide range of experts.

One of the great things about science that we should remember is that there is no such thing as "the science says". Science should remain contestable. Can you imagine if science was not contestable? We would still be saying, "You can't challenge the notion that the solar system revolves around the earth." Scientists challenged that, and that is how we advance knowledge. It is really important that we continue to contest. Scepticism is one of the most important factors in science to make sure we make progress. We will listen to a range of experts.

I ask those noble Lords who really want to lock down more, and who say that we not only have not done enough but should do more and lock people down, to look at the impact that has on people's mental health and on our economy. I ask them to think about the wider impact and to remember that we are not in the same place we were a year ago. We have been absolutely clear that vaccines work and that the best thing we can do to get through this is to get vaccinated. It is not too late to get your first or second vaccine. I am grateful to noble Lords who have asked questions—

Baroness Thornton (Lab): The Minister is now saying that there is absolutely no doubt about the science behind vaccinations. That is not a matter of opinion; there is no doubt about the need for vaccinations. He is straying into dangerous territory when he says that there is science on this side and science on that, because the Government have rightly said that vaccination is the way forward.

Lord Kamall (Con): I thank the noble Baroness for agreeing with the Government's line that vaccination is the most important way forward.

6.30 pm

Baroness Thornton (Lab): The Minister is being patronising. We have always—always—supported the Government on vaccination; I am sorry that the Minister feels he needs to be sarcastic about that.

Lord Kamall (Con): I apologise to the noble Baroness if I came across as sarcastic.

In terms of hospitality settings, quite rightly, as a number of noble Lords have said, even though we have mandated it in certain settings, it is being left to settings to decide. This is in line with property rights, but also something that people have been asking for—a number of noble Lords have asked "Why not just let the establishments themselves decide, so people can make a decision whether they go to somewhere where masks are mandated or somewhere where they are not mandated?" We are looking really hard at this and we want to make sure that we are proportionate. It could be that we find out that omicron is not that dangerous, but we have to make sure that we have the data and that we sequence it all. It could be that it affects us

more in the UK that it would in South Africa because of the change in demographics. That is a really important point.

In terms of who is responsible for enforcement, the police and Transport for London officers have powers to issue fixed penalty notices for non-compliance with the regulations. They are using the four E's in a proportionate way: engaging, explaining and encouraging before enforcement, just to remind people, if they can, to make sure that they wear a face mask.

The Health Secretary has also asked the JCVI to consider giving boosters to as wide a range of people as possible. If you are boosted, your response is likely to be stronger, so it is more vital than ever that we get our jabs.

On helping the rest of the world, the UK remains committed to donating 100 million doses by mid-2022. We are also extremely grateful to the South African Government; we have been talking to a number of partners, including South Africa directly, to make sure that we do not disincentivise other countries for doing the right thing by reporting the outbreak in the first place. We are doing all that we can.

I am trying to make sure that I answer all the questions; I apologise if I am not able to. My noble friend Lady Neville-Rolfe asked about exemptions for children under the age of 11 and those unable to wear a face covering due to health, age, equality or disability reasons. In terms of the impact to the economy, we do not know the extent to which the variant escapes the vaccine, but as soon as we do, we will be able to make a better measure. We do not at the moment expect there to be significant economic disruption. We have said that we believe face coverings are effective at reducing transmission indoors. The recent UKHSA study suggests that all types of face coverings are, to some extent, effective, but we also welcome challenges to that data. The advice remains the same: we believe that, on balance, it is better to wear a face mask. Many noble Lords have agreed and disagreed with that, but we have to balance these things.

Proportionate measures remain in place in schools. Face coverings should now be worn in communal areas by older students and teachers. The Department for Education is looking at how we make sure that there are clear guidelines on that. We advise staff, visitors and pupils to wear face coverings in communal areas.

I turn to the point from the noble Baroness, Lady Tyler, and that very personal case; it highlights—this should sober us up—those very powerful words that this is not over. We have said that consistently. It is not over. If we believed it was over, we would have removed all restrictions. It is highly likely, but not definite, that we may have to continue to get boosters. Just as we have an annual flu vaccine, we may in the future end up with an annual Covid vaccine, including looking at other strains.

We have said who is responsible. In answer to a point made by my noble friend Lord Cormack, may I suggest that he takes his point about continuous committees up with the Lord Speaker? That is not really in my remit as Minister for Health. My initial reaction is that it seems a good idea, but let us see what the Lord Speaker says.

I again thank all noble Lords for their contributions and for continuing to challenge. That is really important. I can assure my noble friend Lord Cormack that today I asked my department for a list of potential or forthcoming regulations so that we can lay them as early as possible, as my noble friend and other noble Lords suggested. I am grateful for the acknowledgement that we laid these regulations as quickly as we could, and I pledge that we will try to improve that as much as we can, I too, believe very strongly in procedure and the Government and the Executive being held to account. It is really important.

Baroness Neville-Rolfe (Con): Before my noble friend sits down, I thank him for mentioning the economy. His assessment is that the impact on the economy should not be great, but of course there has already been an impact on the economy from this new strain. I think I mentioned in particular the transport industry, which has been affected. Would he be able to come back to me on this business of economic assessment—in fact, not only economic, as I am also worried about the impact of the measures being taken on things like cancer deaths. There is no time to discuss that now, but I would really like to have a further discussion, perhaps bilaterally. We will of course have my noble friend Lady's Noakes's regret amendment in due course, but that may be months away. It really is very important to understand the implications of what we are doing. We are doing it for the right reason, but it has a wider impact.

Lord Kamall (Con): My noble friend raises an important point. We also have to clear about unintended consequences and the costs of what we have been doing. I read an interesting article from the leading behavioural economist Paul Ormerod, who asked where have all the economists been when it came to this debate, as economics is about considering trade-offs.

I again thank the Government of South Africa for their rapid identification of the variant and their transparency in alerting the global community. I commend our scientific and public health experts who continue to monitor the situation closely alongside our scientific and public health partnership organisations across the world. We are continuing to collaborate in order to understand the virus, including the data and the different demographics that our countries have and whether a study in one place is relevant to a study in another place.

I also thank the House for its valuable scrutiny today. The Government hope that the temporary and precautionary measures laid in these regulations will enable us to slow down the spread of the omicron variant while we gather more information on how best to deal with it and how infectious it is. The Secretary of State assured Members in the other place that if it emerges that the omicron variant is no more dangerous than the delta variant, we will not keep these measures in place for a day longer than is necessary. I hope that that is the case, but we must take precautions and act decisively until we have a fuller understanding of the omicron variant. I commend these regulations to the House.

Baroness Bennett of Manor Castle (GP): Before the Minister sits down—

Noble Lords: He has sat down.

Motion agreed.

Health Protection (Coronavirus, Restrictions) (Self-Isolation) (England) (Amendment) (No. 4) Regulations 2021

Motion to Approve

6.38 pm

Moved by ***Lord Kamall***

That the Regulations laid before the House on 29 November be approved.

Relevant documents: 22nd Report from the Secondary Legislation Scrutiny Committee. Instrument not yet reported by the Joint Committee on Statutory Instruments

Motion agreed.

Rating (Coronavirus) and Directors Disqualification (Dissolved Companies) Bill

Report

6.39 pm

Clause 1: Determination in respect of certain non-domestic rating lists

Amendment 1

Moved by ***Baroness Pinnock***

1: Clause 1, page 2, line 20, at end insert—

"(7A) Before the first determination to which this section applies is made, the Valuation Office Agency must publish a statement outlining—

(a) how many checks, challenges or appeals in relation to a material changes of circumstances due to the coronavirus pandemic it has received and what the total monetary value of those checks, challenges or appeals is, and

(b) its assessment of the impact of this section on the ability of the current system of business rates to—

(i) provide an effective form of funding for local authorities; and

(ii) support town centres and local high streets."

Member's explanatory statement

This amendment would require the Valuation Office Agency to publish information on applications relating to a material changes of circumstances, and whether the changes introduced in this Act will support local authorities, town centres and high streets.

Baroness Pinnock (LD): My Lords, I draw the attention of the House to my relevant interests as set out in the register, as a vice-president of the Local Government Association and as a member of Kirklees Council. I am speaking on Amendment 1 in my name and that of my noble friend Lord Fox, and on Amendment 2 in the name of the noble Baroness, Lady Blake.

I and my colleagues support the principle of the proposals—as I have said at every occasion—in relation to the non-domestic rates element of the Bill. Businesses have faced challenging circumstances due to Covid, and these challenges remain. Understandably, businesses have reviewed their position, and some have decided to use the VOA check, challenge, appeal process to seek a reduction in their business rates. The VOA publishes quarterly statistics of the numbers of businesses using the process to appeal their rates. The statistics do indeed show a spike in both the check and challenge elements of the process. For example, there were around 80,000 checks requested in the March to June quarter of 2020 —this spike compares with an average of around 10,000. However, 70,000 of these checks were quickly resolved. There were around 22,000 challenges in the next quarter, but fewer than half seem to have been resolved. There is clearly a significant increase in the volume of claims being received by the VOA. However, the value of these claims, including the value of successful claims, is not revealed.

Throughout the course of the Bill, I have been concerned to establish the evidence base for its proposals, including, importantly, the total value of successful and potentially successful claims which would result in a loss of business rates income. A loss in business rates income has a direct and adverse impact on local government finances, which have already been squeezed dry. Responding in Committee to similar concerns that I raised, the Minister was unable to give a categoric assurance that there would be no loss of income for local government. The Minister stated then that

"central government will meet 75% of the costs of irrecoverable losses in business rates income for 2020-21."—[*Official Report*, 10/11/21; col. GC 522.]

Can the Minister confirm that local government will not be paying for any losses in business rates due to Covid?

Further, it is widely accepted that the existing system of business rates is ineffective and woefully inadequate in ensuring that retail businesses that use online ordering are paying at the same rate as those on traditional high streets that the Government often profess to want to support but lamentably fail to.

Amendment 2, in the name of the noble Baroness, Lady Blake, seeks a review of the impact of the changes and of whether business rates are fit for purpose. Any government review with recommendations to try to fix this broken system is welcome, and we support the sentiments in this amendment. I beg to move.

Baroness Blake of Leeds (Lab): My Lords, I declare my interests, particularly as a vice-president of the LGA. I will speak to Amendment 2, in my name, and to Amendment 1, as introduced by the noble Baroness, Lady Pinnock.

As we begin Report, I remind the House that we are broadly supportive of the Bill and recognise that action needs to be taken swiftly. The measure in the Bill to rule out Covid-19-related material change of circumstances business rates appeals—that is quite a mouthful—coupled with the announcement of £1.5 billion in funding to provide additional targeted support to those businesses that have not already received rates relief, provides some certainty for local government.

6.45 pm

The noble Baroness, Lady Pinnock, referred to the impact on the finances of local government, and that of course broadens out to the challenges of the whole pandemic period. In Committee, I was reminded that, only nine months ago, I was the leader of the second largest metropolitan authority in the country. The financial aspects around Covid back then were incredibly concerning, and they continue to be so.

I emphasise the real concern expressed across the local government sector about how that figure of £1.5 billion was arrived at. It sounds a significant amount of money—and indeed it is. The point I keep coming back to is whether it matches the need that it is there to cover. Is it sufficient to prevent businesses falling through the cracks? Will it address the Government's long-term neglect of the UK's high streets and local businesses?

I draw attention to the wider issue that remains: whether business rates are fair and effective. In October, the CBI, along with 40 trade associations—including the British Retail Consortium, UKHospitality and the SMMT—representing about 261,000 businesses, called for the reform of the current business rates system, stating that the

"existing, outdated and outmoded business rate regime acts as a drag on … a high wage, high productivity and high investment economy."

Amendment 2 seeks to get to the heart of this issue for businesses up and down the country. It would ensure that a report is produced on whether further legislation is needed on factors which may or may not be taken into account in making a relevant determination in relation to business rates. Her Majesty's Opposition would like a root-and-branch reform of the business rates system, to make it fair and to help bricks-and-mortar retailers compete with online tech giants. Such reform cannot come soon enough. Data from the ONS in October revealed that up to 332,000 businesses, employing over 800,000 people, are at risk across the country. We need to shift the burden of business taxes to create a level playing field, moving away from one that punishes investment, entrepreneurship and the high street.

I look forward with interest to hearing the Minister's comments, particularly referring back to the discussions that we had in Committee. A significant number of concerns were expressed from all sides of the Chamber at the way that this legislation has been brought forward; we need to put a marker down around that. Having said that, given the critical situation facing businesses, and therefore local authorities, and therefore communities, we recognise the need to move forward with the legislation, but we need to recognise that there are some very serious questions still to be answered.

Lord Leigh of Hurley (Con): My Lords, I want to add my comments on Amendment 2. I remind the House of my interests: I advise SME businesses and am also a landlord.

Increasingly, a number of people that I talk to, specifically in the retail sector, are very concerned that the Government are not listening to their concerns in respect of rates. Over the last 18 months, a number of companies have gone through CVAs. As a result of those CVAs, they have entered into turnover-based rents with landlords, enabling them to carry on trading from particular locations. But the size of the rates has meant that, despite having turnover rents, they are not able to carry on trading from retail premises, specifically because of the rates; more importantly, they are not able to open new locations that would otherwise be economically viable because of turnover rents, specifically because of rates.

I do not expect my noble friend the Minister to answer these concerns in this debate on this amendment, but business, particularly the retail sector, would like it acknowledged that the Government are aware of, focused on and planning steps to address this issue.

The Minister of State, Home Office and Department for Levelling Up, Housing & Communities (Lord Greenhalgh) (Con): I thank noble Lords for raising two important issues. The noble Baroness, Lady Pinnock, asked whether we will have data to know whether the £1.5 billion is enough and that we are not short-changing local government in any way. The noble Baroness, Lady Blake of Leeds, wanted to know about the future of business rates reform, given that we are seeing the economy shift to online and that many bricks-and-mortar businesses are struggling to pay their rates bills. I will try to address those points in turn.

I can give the noble Baroness, Lady Pinnock, some assurance on the availability of VOA statistics, which tell us about the adequacy of the Government's support. During 2022, the VOA will provide new data specifically marking out Covid-related MCCs but, even in the existing data sets, we can get an insight into the nature of these cases. I quote more recent figures from October: as of 30 September 2021, 63,780 challenges were outstanding in England, the vast majority of which are on hold pending this Bill. Far more challenges could come forward from ratepayers who have already made checks—a check being the first stage in appealing the rateable value of one's property. In the period since April 2020, the VOA has received more than 400,000 checks. So, there is a wealth of statistical evidence out there and it will be enhanced next year. This evidence cautions against any suggestion that we should introduce a like-for-like compensation for Covid-related reductions in rateable value, which, on account of this Bill, will rightly not materialise. That was never the intention, and we should not seek to create an equivalence.

On the point made by my noble friend Lord Leigh of Hurley and the noble Baroness, Lady Blake, we recognise that particular industries have been hit very hard by the pandemic. We have statistics on the drop in gross value added by industry, and there is a wide range of reductions by sector. That comes to the question of how we divide the £1.5 billion, which I will return to in the debate on the next group of amendments.

Let me give the Government's most up-to-date position. Following the conclusion of the business rates review, the Government will shortly consult on measures arising from that review and seek to bring forward legislation in due course. The consultation was published only yesterday and explicitly anticipates future legislation to deliver major reforms. These include

[Lord Greenhalgh]
three-yearly revaluations, a major ask of ratepayers, support for property improvements and support for green plant and machinery. So, noble Lords should have complete confidence that there will be an opportunity for them to consider, debate and scrutinise these measures and the Government's overall business rates policy.

I should have declared my residential and commercial property interests as set out in the register; I forgot to do that right at the beginning. I must underline that I have not been involved with any material change of circumstance approach, but I recognise that many businesses, including many small businesses, are waiting eagerly to hear how we will resolve this situation.

Baroness Pinnock (LD): My Lords, I thank the Minister for his response. We clearly had evidence of the volume of appeals by businesses. I am still concerned about the value of those and whether sufficient money is being made available to recompense businesses, but we will come to that in the next debate. Having said that, I thank the Minister for his reply and beg leave to withdraw the amendment.

Amendment 1 withdrawn.

Amendment 2 not moved.

Amendment 3

Moved by ***Baroness Blake of Leeds***

3: After Clause 1, insert the following new Clause—

"Advice to local authorities

Before 1 March 2022, the Secretary of State must publish a statement containing advice to local authorities on the implementation of this Act."

Member's explanatory statement

This amendment would ensure that the Secretary of State publishes advice to local authorities on the implementation of this Act.

Baroness Blake of Leeds (Lab): In this group we also have Amendments 7 and 8, in the name of the noble Baroness, Lady Pinnock.

I move this amendment to seek confirmation

"that the Secretary of State publishes advice to local authorities on the implementation of this Act."

Clearly, there has been some movement on this issue; there was widespread concern about this Act in Committee. From my experience, this message has been repeated not only in this area but throughout the whole pandemic. Given that local authorities were tasked with many responsibilities in helping businesses with the financial packages from government, which were welcome, it is important that whoever is in government has the full respect for local government that it needs and deserves. Timely, appropriate and full information is of paramount importance.

I am sure that I do not need to remind the House that local authorities face a dire situation, particularly regarding their finances. Many of them are about to publish their budget, which they will have to deliver in the early months of next year. The timing of this Bill brings into focus why local authorities are asking for clarity, and the sense of urgency that is being expressed.

We know that, since 2010, under the policy of austerity, Conservative Governments have variously come together to cut £15 billion from central government funding to local authorities. According to the Local Government Association, councils in England will face a funding gap of more than £5 billion by 2024 just to maintain services at their current levels. That is why we must ensure that they get the best advice from government on the implementation of this Bill. If we could have real clarification from the Minister on what advice they will receive and when, we would be grateful.

On the £1.5 billion in the funding announcement, I remember my noble friend Lord Hunt saying in Committee that there is a problem in that the guidance to local authorities on the distribution of money is still awaited. Many businesses do not know whether they will qualify for funding given that, as I understand it, the criteria have not yet been published. My noble friend was particularly concerned that whole areas have been missed out in the proceedings.

In Committee, the Minister stated:

"The funding will be available as soon as local authorities have established their own local release schemes; the Government will support them to do this as quickly as possible, including through new burdens funding."—[*Official Report*, 10/11/21; col. GC 522.]

I would be grateful if the Minister could provide an update on how that work is going, and give a clear explanation of how the rationale running throughout this is being used to inform how decisions are made and how fairness and transparency will be assured. I beg to move.

Baroness Pinnock (LD): My Lords, Amendments 7 and 8 in my name pursue an issue I raised both at Second Reading and in Committee regarding the complete mystery surrounding the £1.5 billion of taxpayers' money that the Government propose to use as recompense for businesses in removing their rights to appeal their business rates.

This is all very unsatisfactory. The Bill is in its final stages and we do not know, first, the value of the real and estimated claims being made by businesses via material changes of circumstances based on the impact of Covid. The Minister may well claim that there is no information regarding the value of estimated claims, yet that is precisely what the Bill seeks to do. Secondly, we do not know at all whether £1.5 billion will in any way be sufficient to adequately and fairly compensate business for the removal of lawful claims made to the VOA.

7 pm

Throughout the course of the Bill's passage, the Minister has been unable to make a connection between removing the right to appeal the level of business rates using Covid as the reason and the sum of compensation specifically stated in the Bill. This simply will not do. The Minister has also so far been unable to explain how the £1.5 billion will be disbursed. Perhaps he will be able to provide some answers today.

What is the basis for the estimate of the need for £1.5 billion? Will it be sufficient to cover all legitimate claims? What criteria will be used to judge claims? Will criteria be set by government, or will there be local discretion? Will the funding be distributed to local authorities prior to claims being made and, if so, how will this be done? If the funding runs out and legitimate claims are still in process, will the Government be prepared to increase the funding available?

I know that is a lot of questions, but I have been asking them all right through the process of discussing the Bill. I hope the Minister will be able to provide full answers to them, as I am not prepared to support a Bill that leaves so many fundamental questions unanswered. I look forward to his response.

Lord Cormack (Con): My Lords, I intervene very briefly, as I did at the substitute Second Reading and in Committee. I am concerned only with Clause 1 of the Bill, and I declare again—as I have in the past—that I have from time to time over the last nearly 50 years given advice to the Machinery Users' Association, which was established in 1884 to give advice on the rating of plant and industrial machinery. Many of its members are, of course, concerned, particularly with the questions the noble Baroness, Lady Pinnock, just raised.

I do not want to prolong the debate; it is clear that the Bill is going to go through your Lordships' House without amendment. I just ask my noble friend to give as much information and as clear answers as he can to the wholly legitimate questions asked by the noble Baronesses, Lady Blake of Leeds and Lady Pinnock. I await his replies with considerable interest.

Lord Greenhalgh (Con): My Lords, I will do my very best. I start by saying that local authorities are protected by what is known as the local tax income guarantee; I know the noble Baroness, Lady Pinnock, knows about that. Three critical questions have been raised, and I will take time in answering them to reassure noble Lords that this has been well thought through.

First, there is a false equivalence between the £1.5 billion and the material change in circumstances. We do not see the £1.5 billion as a like-for-like compensation for Covid-related MCC claims. The statistics show that it would have seen reductions applied indiscriminately to properties whether or not their occupiers needed support. The £1.5 billion relief we are introducing is not—and should not be—designed to mimic or replace the MCCs that were submitted. It is better than that: it is focused on those who submitted MCCs who genuinely needed support and may have had to wait years. They will be able to access it more quickly because the approach is more targeted, and industries that have received quite considerable support are excluded from that amount. That is why we are taking this important approach.

I think the critical question that the noble Baronesses, Lady Blake and Lady Pinnock, asked is how the £1.5 billion will be distributed. I have to say that I have taken quite a long time to understand that myself; I put that right on the table. I have had some help from the former chief economist of the Bank of England, Andy Haldane, and I have had meetings with colleagues and Ministers in the Treasury about this. I think I broadly understand it. The marker that will be used at the national level is the ONS data around the gross value added reduction for those industries that have not had support. That is very robust information at the national level, but unfortunately we do not have very good data at the regional level for the last two years. So we will use the data we have at the local level around industries, because we know, broadly speaking, which businesses are at the local council level. Therefore, it is not something that is going to be gained. There is a clear proxy metric in GVA with the good data we have at the local level. I am satisfied that this is the best we can do in these circumstances and a sensible way in which to divide the cake.

The last question is around the timing of the guidance and implementation. I have spoken of the benefits of using locally administered business rates relief, rather than the appeals system, to funnel support where it is needed. One of these is pace, and since Parliament is agreed on the principle of the Government's approach, we have a responsibility to avoid unnecessary delay. We need to move, and that is one of the real benefits of this course of action. The best course of action is to speed the Bill through to Royal Assent. On that basis, I hope noble Lords will not press their amendments.

Baroness Blake of Leeds (Lab): My Lords, I thank the Minister for taking our concerns very seriously and for going away and having conversations with some very senior people. I am sure I speak for the noble Lords on the Liberal Democrat Benches when I say that we appreciate that. In Committee this concern was repeated from whichever Bench someone was speaking from. This is a very real concern, so I sincerely thank the Minister.

The question that will remain, of course, is how this is maintained and monitored and how we make sure that there will be recourse to additional funds if the £1.5 billion is not adequate. I am not sure that I have quite got that security of knowledge.

Lord Greenhalgh (Con): The Government always keep these matters under review. We recognise the importance of business rates in providing the financial stability and underpinning for local councils, and I can make that commitment, as with all government policy.

Baroness Blake of Leeds (Lab): With those reassurances, I beg leave to withdraw my amendment.

Amendment 3 withdrawn.

Amendment 4

Moved by ***Baroness Blake of Leeds***

4: After Clause 3, insert the following new Clause—

"Insolvency Service finances and resources

(1) Before 1 March 2022, the Secretary of State must make a statement on the impact of this Act on the financial situation of the Insolvency Service.

[Baroness Blake of Leeds]

(2) The statement must include an assessment as to whether the Insolvency Service is sufficiently resourced to meet its obligations under this Act."

Member's explanatory statement

This amendment would place an obligation on the Secretary of State to make a statement on the impact of this Act on the financial situation of the Insolvency Service and whether the Insolvency Service is sufficiently resourced to meet its obligations under this Act.

Baroness Blake of Leeds (Lab): This amendment relates to part of the situation discussed in Committee: that this a hybrid Bill which has caused some conversation and comment over its different stages.

In moving Amendment 4 in my name, I will also reference Amendments 5 and 6. Amendment 4 would place an obligation on the Secretary of State to

"make a statement on the impact of this Act on the financial situation of the Insolvency Service"

and

"whether the Insolvency Service is sufficiently resourced to meet its obligations under this Act."

As we know, the Bill removes the necessity for the Insolvency Service to apply to court to have dissolved companies restored before investigating said companies' directors. In doing so, it makes it quicker and cheaper for the Insolvency Service to investigate the directors of dissolved companies.

Her Majesty's Opposition are pleased at the closing of a legal loophole that for too long has allowed unscrupulous company directors to evade responsibility for their financial decisions. However, we remain concerned about whether the Insolvency Service has enough resources to carry out this extra work. We understand the concern caused by the behaviour of some directors in receipt of, for example, bounce-back loans and how the dissolution process might be being used inappropriately to shed liabilities. I should like to ask the Minister: do we have an assessment of the scale of the problem this is causing?

The Bill makes no mention of further funding for the Insolvency Service. Given that the Bill means that the service will be carrying out additional investigations, this is worrying and risks overstretching it. Can the Minister confirm that the service will be given the adequate funding to deal with this workload and ensure that all necessary investigations are carried out to a good standard? If the Minister argues against such a statement, as requested by Amendment 4, will he explain clearly how adequate resourcing for the service for these new powers will be included in its annual report? I beg to move.

Lord Fox (LD): My Lords, I rise to speak to Amendments 5 and 6 in my name and that of the noble Lord, Lord Leigh of Hurley.

Amendment 5 seeks to add a new clause that would require the Secretary of State to report on the resources and the powers available to both the Secretary of State and the Insolvency Service in relation to the Bill. It covers similar territory to the amendment of the noble Baroness, Lady Blake. Despite the Minister's comments in Committee that resources are always available for cases in the public interest, members of the insolvency and restructuring profession report that they often see cases involving significant breaches by directors that are not investigated and acted on. This would suggest that the Insolvency Service is currently resource-constrained.

That view is supported by looking at figures on the disqualification of directors of insolvent companies by the Insolvency Service. These show a roughly flat line of disqualifications made by the service over a number of years—a constant rate of disqualification, irrespective of economic conditions, trends or fluctuations in the number of corporate insolvencies. Again, that suggests a resourcing issue for the service.

That situation could get worse without a commitment to fund the additional cases that the Bill will create. We have therefore tabled our Amendment 5, which would require the Government to report six months after the Bill has been passed on whether the appropriate resources were available to undertake the additional investigations required as a result of the legislation.

I thank the Minister, who met me and the noble Lord, Lord Leigh, to discuss these amendments—I think very productively. It is clear that the Minister and the Insolvency Service grasp the point that the more resources that there are, the better the return, or likely return, to the taxpayer. We are looking for something from the Minister that indicates that Her Majesty's Treasury shares this understanding. We of course do not want to upset delicate negotiations that may now be under way between the Minister's department and the Treasury, but a clear indication that the resource issue is in hand would help negate the need for this amendment.

It would also be helpful if the Minister were able to comment on the nature of the cases that this legislation will enable. Our understanding is that the Bill gives the Insolvency Service the power to pursue recompense from the former directors of dissolved companies and that this can be done via compensation orders without the cost of reinstating the companies in question. The key issue for clarification is which creditors may benefit from these future compensation orders. Can he confirm that future beneficiaries will include all other creditors in addition to Her Majesty's Treasury? The Minister has just nodded. Can he confirm that the Insolvency Service will include the plights of those other creditors in its calculation of the public interest when it decides which cases to pursue?

The second amendment, Amendment 6, would also add another clause. This time, it creates a requirement on the Secretary of State to report on the impact of the legislation on the investigations into the conduct of directors of dissolved companies. The principal purpose of this amendment is to weigh the success of the legislation by measuring and reporting its ability to claw back money from directors of dissolved companies. We know that the Insolvency Service already has a duty to report annually. However, at the moment, our reading is that the metric we propose here is not explicitly included in the list of requirements on which to report. Again, following discussions with the Minister, it seems reasonable for this "cash-back" criterion to be added to the Insolvency Service's annual report agenda. We hope that his response to this amendment will do just that, rather than requiring primary legislation. I trust that he is able to make those undertakings.

7.15 pm

Lord Leigh of Hurley (Con): My Lords, I have put my name to Amendments 5 and 6, although, with all credit to the noble Lord, Lord Fox, his team did most of the work in compiling the text. Given the hybrid nature of the Bill, I need to declare a completely different set of interests, which is that I am chairman of an AIM company, Manolete Partners plc, which is in the insolvency-related area.

The direction of travel from the noble Lord, Lord Fox, and me is to ensure that regular creditors, in addition to Her Majesty's Government and agencies such as HMRC, are looked after where companies have been dissolved. It is clear that some people are prepared to be struck off as directors and do not see that as much of an impediment to their business life. I am grateful to the insolvency trade association, R3, which has advised us that insolvency and restructuring professionals, who have extensive experience in tackling fraud, have noted that serious serial rogue directors do not see being disqualified as a significant deterrent, and will often go on to commit repeat frauds. Insolvency practitioners frequently see disqualified directors contributing to successive business failures or breaching the terms of their disqualification by working as shadow directors or "advisers" to these phoenix companies that are subsequently set up. In fact, R3 has given us specific examples of where that has taken place.

It is clear that the disqualification mechanism is not in itself deterring culpable directors, thereby putting the public at risk. For the policy to be effective, it is clear that investigations should lead to prosecutions. It is not clear to me how the prosecution of a director of a dissolved company—that is, a company that no longer exists—can legally take place without the company first being restored. Perhaps the Minister can clarify that. Does the Insolvency Service intend to restore every company when it is going for prosecutions? That is why we want to see how the Insolvency Service will do that and how successful it has been. That is why Amendment 5, particularly proposed new subsections (2) and (3), is required.

There is still the open question: is this the right route? For example, should we be looking at changing the law somehow to allow prosecution of directors of former companies, now dissolved, without returning them to the register? I would be keen to push the Insolvency Service to tell us, as proposed new subsection (2)(b) of Amendment 5 requires. But what the noble Lord, Lord Fox, and I are most concerned about is compensation. In that regard, I thank the Minister for his letter of 22 November setting out the position on the existing regime as far as Sections 15A and 15B of the Company Directors Disqualification Act 1986 are concerned in respect of compensation orders.

As I understand it, using a compensation order means that many other frauds, not just the bounce-backs that prompted this legislation, can be carried out, whereby the directors simply will not get investigated or identified if the dissolved company is left alone. As I have mentioned, currently it is only by restoring these entities and putting them through an insolvency process that misplaced assets, other frauds, misfeasance and so on can be identified, leading to further action against these directors.

I genuinely think there is some confusion—certainly for me and possibly the noble Lord, Lord Fox, and others—in understanding whether or not a company needs to be restored before further action can be taken. If it is not restored, what are the mechanics of a compensation order in respect of a company that does not exist anymore? We would like to see the evidence of what the Insolvency Service is up to. With a dissolved company remaining dissolved, the normal creditors—non-government creditors—stand to gain nothing from the compensation order because the fraud concerned related primarily to bounce-back loan fraud. This is clearly very important where the Government are the victim and we all want to assist them, but that does not help the wider body of creditors who have suffered.

I appreciate we are straying into some technical areas, and we are going to have to rely on assurances that compensation orders will be used by the courts for the benefit of all creditors rather than just HMRC. We are also, frankly, just going to have to wait and see what definition will be used for public interest. I do not think there has been any offer of assistance in defining public interest. We are going to have to see how many cases are dealt with by the Insolvency Service. That is why we have tabled Amendment 6, so we can see what happens and—as is our usual style—then suggest some helpful further steps that might be taken.

I am aware that the Insolvency Service, as has been mentioned, publishes an annual report, which I have read carefully; it was updated a couple of weeks ago. That shows that the Insolvency Service is a big and important agency. I was surprised to learn that it spends some £625 million per year. By statute, it has to report on its activities, and I was pleased to see that it has an 84% customer satisfaction result, on which I congratulate it and the Minister. But it is not clear to me from reading this report that the specific items requested in Amendment 6, particularly subsection (2) of the proposed new clause, would be required to be disclosed as separate, specific issues. I welcome the Minister's views on how we can best achieve some transparency, and how the Government are getting on with implementing this Bill and achieving the aims we all seek.

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Callanan) (Con): My Lords, Amendments 4, 5 and 6 seek to put reporting requirements into statute, and I am happy to comment on them. I am grateful to noble Lords for giving me the opportunity to talk both about the process of investigation and disqualification and the reporting work that the Insolvency Service already undertakes. I also put on record my thanks to the noble Baroness, Lady Blake, the noble Lord, Lord Fox, and my noble friend Lord Leigh, for the very constructive and helpful meetings that we have had in the lead-up to this debate.

Before I talk specifically about resourcing and reporting of investigative outcomes, let me take some time to remind noble Lords of the process which leads to the disqualification of company directors, focusing on the situation where a company is subject to insolvency proceedings—which is different to the situation where a company is dissolved. The officeholder, whether

[Lord Callanan]
they be an administrative receiver, a liquidator or an administrator, must report to the Secretary of State on the conduct of the directors of the company within three months of the company going into insolvent liquidation, administration or administrative receivership. Upon receipt of this conduct return, the Insolvency Service will assess the information provided to prioritise the case in terms of its public interest. Factors that could be considered—for the benefit of my noble friend Lord Leigh—might be the seriousness of the misconduct in terms of the damage caused, the previous behaviour of the director in question and the need for protection of the public from the actions of the director. This assessment is used to prioritise the most serious cases, which are then investigated using the powers in the Company Directors Disqualification Act 1986.

Of course, not all investigations will lead to disqualification proceedings being brought. One outcome of the investigation might be that the director acted reasonably given the information that was available to them at the time, and if this became apparent then the investigation would be concluded. Where there is evidence of misconduct, though, and the Secretary of State is satisfied that public interest criteria are met, disqualification proceedings may be sought, either through an application to the court or through the director giving an undertaking not to act as such for a period of time, depending on the determined seriousness of the misconduct. An application for disqualification must not be made after three years from the start of the insolvency proceedings unless the court gives its permission. For unfit directors of insolvent companies, the period of disqualification can be between two and 15 years.

Following on from successful disqualification proceedings, if it can be identified that the director's conduct caused losses to creditors, then the Secretary of State may seek payment from the director for their benefit by way of disqualification compensation. As with the disqualification proceedings, this may be dealt with by way of an application to a court or by an undertaking given by the director. Compensation may be paid to the Secretary of State for the benefit of a specific creditor or creditors, or a specific class or classes of creditors, or instead may be paid to the insolvency officeholder for the benefit of all creditors.

Compensation work is undertaken by investigators at the Insolvency Service, so as much of the money as possible may be returned to creditors. I confirm for the benefit of the noble Lord, Lord Fox, and my noble friend Lord Leigh, that no preference is given to any particular creditors or groups of creditors, other than that the compensation payments are for the benefit of those who have lost out as a result of the misconduct. It is important to note also that, if the insolvency officeholder had already used the various provisions in the Insolvency Act 1986 which allow them to seek recoveries for the benefit of creditors, such as the fraudulent or wrongful trading provisions, then compensation would very probably not be sought for the conduct which led to those claims so that the directors would not face double jeopardy.

Noble Lords will have seen that the Bill gives a similar standing to the new measures to investigate and disqualify former directors of dissolved companies as currently exists for insolvent companies and they use the same sections of the Company Directors Disqualification Act. Unlike insolvent companies, though, there will not be an officeholder in a dissolved company, so the investigation process will not start with a report on the director's conduct. Instead, the Secretary of State will in most cases be alerted to potential misconduct through complaints received by members of the public. This will not mean that conduct reports provided by insolvency officeholders will be overlooked in favour of complaints received in dissolved companies. All will be assessed in terms of their relative seriousness and the level of public interest. A disqualification application must not be made after three years from the date of dissolution unless the court gives its permission.

This would perhaps be an appropriate point in my remarks to pay tribute to the excellent work of insolvency practitioners, who provide the conduct returns to the Insolvency Service, and who in many cases continue to assist with the investigative effort beyond that initial assessment.

Noble Lords may well recall that these measures were developed and consulted on back in 2018, before any of us had even heard of a disease called Covid-19 or a bounce-back loan. At the time, the Insolvency Service had been receiving a regular low level of complaints about the abuse of the process of company dissolution. Many of those complaints concerned its use in phoenix companies—where one company is dissolved only for another to spring up essentially doing the same thing but without the debts. Because of the dissolution, the Insolvency Service had been unable to take action against the directors responsible. The opinions of stakeholders on new powers to tackle this kind of misconduct were sought, and these were generally fairly positively received. Implementation of the measures has now become even more important and more urgent because of the risk of abuse of the dissolution process to avoid repayment of bounce-back loans.

This brings me to the question from the noble Baroness, Lady Blake. I can tell the noble Baroness that the Bounce Back Loan Scheme closed for new applicants on 31 March 2021. At the time of the scheme's closure, £47.4 billion-worth of finance had been provided to some 1.5 million businesses. Given the levels of uncertainty around the economy and the virus, the anticipated fraud levels are very preliminary and speculative. They are not based on any repayment data because that did not even begin until May 2021.

I make a final point on the process for disqualification. I can confirm to my noble friend Lord Leigh that it would not be necessary for a company to be restored to the register for the conduct of its directors to be investigated, and the same applies if and when compensation is sought from a disqualified former director of a dissolved company. There will be no automatic restoration process, nor is there any need for one for the purposes of the investigation and disqualification. This way, the costs and administrative burden of restoration can be avoided.

7.30 pm

I turn now, if I may, to the amendments seeking to establish a statutory reporting requirement for investigations and the resourcing of the Insolvency Service.

I am pleased to confirm to noble Lords that, under an existing statutory requirement, Her Majesty's Treasury directs the Insolvency Service to report annually on its work and finances. This is pursuant to a power in Section 7 of the Government Resources and Accounts Act 2000. Its annual report and accounts include both an overview and an analysis of the agency's performance over the course of the year. There are sections on how it makes use of resources available, including those used for enforcement activities and enforcement case studies, including disqualification and criminal prosecution. The report also includes information on how much money was returned to creditors during the year. Full accounts are provided, which are audited and signed off by the Comptroller and Auditor-General, and the whole package is available to everyone online. Going forward, the annual reports and accounts will of course include relevant information on the new measures as part of the enforcement reporting package.

In response to a question from my noble friend Lord Leigh, specific information on money returned to creditors from compensation orders has not previously been published, as they are relatively new in this framework. However, I have asked the Insolvency Service to consider how this can best be achieved when such information becomes available. In addition, the Insolvency Service regularly makes available a large amount of insolvency and enforcement statistics and, again, these are readily available online.

Specifically regarding enforcement activities, the number of disqualification orders is published and updated monthly, and a breakdown of disqualification orders and undertakings obtained by the relevant section of the Company Directors Disqualification Act under which they were sought is provided. Other information provided on a monthly basis includes lengths of periods of disqualification. Furthermore, there is an annual report on the nature of misconduct in disqualification allegations. Future releases of statistical information will include the number of disqualified former directors of dissolved companies.

I note the concern of the noble Lord, Lord Fox, and my noble friend Lord Leigh about the reporting of how much money will be returned to creditors, and of course the Government are also concerned about getting money back for taxpayers. But I should emphasise that this measure expands the Secretary of State's powers to investigate and disqualify culpable directors, and disqualification itself is not a process which is a mechanism for returning money to creditors. Instead, it is intended to protect creditors from future losses caused by those directors who, through their reckless or irresponsible behaviour, have shown themselves unfit to hold that position—and to deter others from behaving similarly.

The Secretary of State's power to seek compensation from disqualified company directors was a welcome addition to the enforcement regime in 2015, which will obviously benefit from these new cases. Nevertheless, the purpose of the legislation is primarily as I described.

On the part of the amendment that requires a statutory review of the effectiveness of the mechanism for the new investigation and disqualification measures, I hope that noble Lords will be pleased to note that the Bill's impact assessment gives an undertaking for a post-implementation review to take place within five years of commencement. As well as being in line with better regulation requirements, this will ensure that a proper assessment is undertaken of whether the use of the new powers has been effective.

Finally, I know that noble Lords, in particular the noble Baroness, Lady Blake, are keen to ensure that the Insolvency Service is sufficiently resourced to tackle wrongdoing and misconduct. Following the outcome of the spending review 2021, the Government are currently considering the resourcing level needed for the Insolvency Service to undertake its statutory functions, and that includes the additional proposed enforcement requirement contained in the Bill, should it be passed by the House. That process is ongoing, with budgets set to be finalised ahead of the next financial year.

I apologise for the length of my reply, but I hope that I have been able to satisfy noble Lords and reassure them that all the information they seek through their amendments will be published—some as part of an existing statutory requirement—and that the reviews that they look to secure are in fact already in place. Once again, while thanking all noble Lords for their contributions, their continued interest in this Bill and, of course, for their amendments, I hope I have been able to convince them not to press their amendments.

Lord Fox (LD): Before the Minister sits down, first I thank the Minister, who has largely been able to meet most of our concerns. On a point of clarification, he said something like, "There will be no automatic restoration process, nor is there a need for one" for the purposes of investigation and disqualification. Does that also mean that there would be no need for one for the purposes of pursuing a compensation order? Can the Minister confirm that there does not need to be reinstatement for the compensation order to be pursued?

Lord Callanan (Con): Yes, it is my understanding that the Bill, if passed, will enable compensation to be pursued, and there is no need for the restoration of companies to the register for that to take place.

Baroness Blake of Leeds (Lab): I start by thanking the Minister for a very full response. Sometimes when I get a very full response, I wonder whether it is an attempt to overload the system, but actually it was very technical. I also thank him—I think on behalf of us all—for taking time to bring his officials together to talk us through it.

We established in Committee that the Bill does not have the capacity to deal with some of the serious concerns raised in our discussions. We will need to revisit some of the worst excesses and infringements of current legislation. Some of the personal testimonies to the levels of fraud and the fact that some directors were re-emerging and getting away with some unspeakable behaviour is still of huge concern to us all.

On reporting, would it be possible to have a conversation on how we can pull out the relevant information from the various reports to which the Minister referred? With the best will in the world, we will not all be able to sit down to go through a whole

[Baroness Blake of Leeds]
set of annual accounts. With the particular experience with Covid and the extent of concern about it, there is a real need for transparency. I hope that we can pick this up and take it forward.

My concern about resourcing is still very live, and I hope that after the reassurance on the spending review and the need to focus on this, the debate in this Chamber will help to inform the decisions that are made. Noble Lords will have heard several in-depth media reports on the concern about the levels of fraud that have been perpetrated over the past 18 months, and I think there is a lot more to come to light.

I thank the Minister for his reassurances, and we will keep scrutinising progress in this important area. I look forward to opportunities—perhaps through further legislation—to deal with some of the real problems that continue.

Amendment 4 withdrawn.

Amendments 5 and 6 not moved.

Clause 4: Extent, commencement and short title

Amendments 7 and 8 not moved.

School Teachers' Pay and Conditions (England) Order 2021

Motion to Regret

7.40 pm

Moved by ***Lord Watson of Invergowrie***

That this House regrets that the School Teachers' Pay and Conditions (England) Order 2021 (SI 2021/1101) represents a real terms pay cut for the vast majority of teachers; further regrets that it has been made following a consultation process which took place over the summer holidays; notes that this created significant problems for consultation and planning for schools; and calls on Her Majesty's Government to commit to holding future consultations on the pay and employment conditions of teachers who are employed in local authority-maintained schools in England during term-time.

Relevant documents: 15th Report from the Secondary Legislation Scrutiny Committee

Lord Watson of Invergowrie (Lab): My Lords, the wording of this regret Motion is self-explanatory. When inflation is taken into account, this order amounts to a reduction in pay for all but a very few teachers at the lowest levels of the pay scale. Even there, the increase of £250 is measured against the increase to the national minimum wage. Is that really an appropriate yardstick of the respect which the Government accord to our teachers? It would appear so.

Government policy on teacher pay since 2010 has created significant problems, and the current policy—which is, in effect, a pay freeze—will create further problems. Concerns on the key pay issues for teachers are reflected across the profession, as seen in the joint union response to the School Teachers' Review Body report, to which the STRB draws attention.

A month ago, the Chancellor's spending review offered a historic opportunity to demonstrate that this Government value education and educators. Despite his rhetoric, he failed to do so, as does this order.

The aspiration of "levelling up" is a worthy one but government policy on education is achieving the opposite. As the Public Accounts Committee noted in October, education funding policy is actually driving resources away from areas with greater relative need, and the spending review announcements will not address those inequalities.

The Minister may have noticed that yesterday the Institute for Fiscal Studies published a report which showed that the most deprived fifth of secondary schools have seen their funding cut by 14% in the decade to 2019 compared to a drop of 9% in the least deprived. If the Minister, or indeed anyone else on behalf of the Government, can offer a justification of those figures, I am sure that I would not be alone in being very interested to hear it. For what it is worth, the Institute for Fiscal Studies also says in its report that a teacher's starting salary of £30,000 and a 3% increase for teachers across the board are "affordable".

It was with some incredulity that I and many others heard the Chancellor boast in the spending review about restoring school spending to 2010 levels—when Labour was in government. I thank the Minister for the endorsement—however belatedly—by her Government of our Government's understanding of the level of funding necessary for education. However, the admission that a decade of cuts to education was a mistake went only so far: those 2010 levels of spending will not be restored until 2024. I suggest that that should be a matter not of pride for any Government—more one of embarrassment.

Teacher pay has been eroded in real terms by successive Conservative Governments, increasing the numbers of recently qualified teachers leaving in their first five years. The Government are not obliged to accept the recommendations of the STRB, so it is at least welcome that they have done so on this occasion. However, any additional costs resulting must be fully funded so that school leaders are able to properly reward and retain all their staff.

We cannot understand why the Chancellor and the Government as a whole do not share our view that pay rises are an investment in public services and in ensuring that we have the teachers we need in front of classes. Public sector workers support the economy with their spending on the high street, which they are less able to do if they are struggling to make ends meet. The era of real-terms pay cuts—there has been a 15% reduction since 2010—and an alarming exodus of recently qualified teachers has been wholly destructive and should now end.

According to the Explanatory Memorandum that accompanies this order, the DfE says that, while the majority of teachers will not receive a headline pay uplift, teachers earning below the maximum of their pay range may still be eligible for performance-related pay progression. The department says that it remains committed to increasing the teacher starting salary to £30,000—a 2019 manifesto commitment, it should be said—and that while pay restraint in 2021-22 will slow

progress towards this commitment, steps taken in recent years, including a 5.5% uplift to starting pay in September 2020, have made

"a substantial difference to the competitiveness of the early career pay offer".

However, I regret to say that that claim is not substantiated by evidence.

In its report, the STRB warned of a "severe negative impact" on the retention and recruitment of teachers if the pay uplift pause for teachers continued beyond the 2021-22 academic year. That caused it to urge the Government to allow it to make recommendations on pay uplifts for all teachers and school leaders in 2022-23. The Government effectively rebuffed the STRB, merely committing in its response to "reassessing" the pay award position ahead of the 2022-23 pay round. From experience, I suggest that neither teachers nor school leaders will be holding their breath in anticipation of a positive outcome to such a reassessment.

The Government have not only imposed a pay freeze on virtually all teachers in England, they have prevented the STRB from fully considering the impact of that and proposing alternatives. That demonstrates both the weakness of the Government's case and undermines the role of the STRB. The STRB's remit is regularly restricted to specific areas of government policy. The teaching unions continue to call for an objective, evidence-based assessment of all the key issues on teacher pay, such as: pay losses against inflation; the impact of pay cuts on teacher supply; and the need for a fair national pay structure, including better pay levels and progression based on experience without the restrictions imposed by performance-related pay.

The national teacher pay structure has been dismantled over recent years, with schools given significant discretion on teacher pay. This pay "flexibility" has not worked, as evidenced by the development of serious teacher supply problems over the past decade. With teachers and school leaders having been denied the pay progression they deserve as they acquire experience and expertise in their roles, I believe the case for a return to a national pay structure to protect the fairness of pay arrangements is a strong one.

Ministers appear to believe that levels of remuneration for teachers are not a big issue because their pay is significantly higher than average. Yes, the average teacher salary in 2020-21 was £38,400, although that figure was lower in the nursery and primary sectors. But the profession needs to be able to compete with other graduate professions, so comparing teacher pay with average pay across the whole economy is not only misleading but does not serve any meaningful purpose. As the STRB has pointed out, the position of teacher pay in the graduate labour market has declined significantly, and the decline correlates with the real-terms cuts to teacher pay since 2010 and with the development of serious teacher supply problems over that period.

I will not enter into any detail on performance-related pay other than to say that the case against it is clear and it is opposed across the teaching profession by teachers and school leaders. It is being dropped by an increasing number of multi-academy trusts and the Welsh Government have dropped it from teacher pay.

The second part of this regret Motion refers to the consultation process taking place over the school summer holidays. The Minister will be familiar with this issue because I have raised it with her twice already in relation to other consultations in the short time since she took up her post. I may be wrong, but I sensed on those occasions that she did not disagree with me.

Four consultees on this order concluded in a joint submission that the timing of the consultation had created significant problems for consulting meaningfully and with regard to planning at school level. It seems that only the Government have failed to notice that most people take their main holidays between mid-July and mid-September.

I note the excuse offered by the DfE in response to the Secondary Legislation Scrutiny Committee of your Lordships' House. In its report on this order, the committee recalls that it has previously expressed concerns about the timing of the consultation on teachers' pay. Asked why the consultation had again taken place over the summer, the DfE told the committee that, as with the situation over the past four years, HM Treasury and No. 10 now insist that all review body reports and consultations should be launched on the same day. In a mea culpa, the DfE then went on to state:

"So, although we would have been ready and happy to publish much earlier than we did, we were subject to the decision from HMT and No10."

If that is indeed the case, the remedy is quite straightforward and surely not onerous: the Government should alter the date on which all review body reports and consultations are launched. They could be brought forward from October, but even if they went beyond that month it would matter not, as the provisions of these orders are currently made retrospective, with September being the month from which they apply.

I suggest that what needs to be applied here is common sense. Again, I have a suspicion that the Minister may be sympathetic to the case that I am advancing, so will she give me an assurance that she will discuss this with fellow Ministers in her department with a view to the DfE taking the lead in injecting that shot of common sense? After all, the summer holidays are more of an issue within her department than any other, and, as we know from its own words, the DfE is ready and happy to publish much earlier. So I say to the Minister: over to you. I beg to move.

Lord Storey (LD): My Lords, there is a wonderful expression that infant teachers often use: I am sad in my heart. I am sad in my heart that teachers in maintained schools are in this position and effectively having a pay cut. If we have a system where we consult on pay and conditions, surely the hallmarks of good consultation are, first, that it should be at a time when we can maximise that consultation and not at the tail end of the summer period—as we heard from the noble Lord, Lord Watson—and, secondly, that we really listen to the views of those people who know what they are talking about. In the last education debate in this Chamber, we all extolled the virtues of teachers and how important they were to young lives. We spoke of how we should value them, reward them and consider their worth. And yet this happens, so, yes, I am sad in my heart.

[Lord Storey]

Let us understand what all the teacher associations or teacher unions have said. All have had the same reaction: that this will undermine our attempts to stem the constant haemorrhaging of teachers. Geoff Barton, the General Secretary of the Association of School and College Leaders, has said:

"Teacher and leader salaries have already failed to keep pace with inflation over the course of the past decade and the imposition of what is effectively another pay cut undermines retention of existing staff and makes salaries less competitive."

The national teachers' union described the Government as being "out of touch". Its joint General Secretary, Kevin Courtney, said:

"The government's pay freeze for teachers is demoralising"

and causes

"recruitment difficulties as we come out of the pandemic."

It was interesting that he should use the word "pandemic", because, at the time of the pandemic, the Government said how important teachers were and how much we valued them. Then we hear from the head teachers' union, NAHT, which says the same thing: that this will be challenging in retaining and recruiting teaching staff, particularly for senior positions, and, again, that it is seen as

"eroding leadership supply, and risks prompting an exodus of leaders when the pandemic finally lifts".

Finally, the National Association of Schoolmasters Union of Women Teachers carried out a survey in which 94% of teachers said they disagreed with the pause on pay uplifts, with 83% saying that it would have a negative impact on the recruitment and retention of teachers.

So I would be interested to hear what the Minister says. I have one cheeky, direct question for her: if it is all right for Peers to have their allowance updated for inflation, why is it not all right for teachers in the maintained sector?

Baroness Blower (Lab): My Lords, I fully endorse the remarks of my noble friend Lord Watson of Invergowrie. The figures on teachers' pay make depressing reading. Since 2010, teachers' salaries have been in serious decline in real terms—we have heard the figures from the noble Lord, Lord Storey. Teachers on main scale 6, which is where they can get to before going through the threshold, would need an increase of 17% to make up for the loss against inflation since 2010. That is not even to get an increase; it is to make up for the loss since 2010. On the other pay spine, an increase of 21% would be needed, and the same figure holds good for the leadership group of teachers.

The School Teachers' Review Body notes that teachers' pay has worsened in the graduate labour market, as we have already heard. Is that not ironic, since, without teachers, there would be no graduates?

But worse, some would say, even than the overall level of remuneration is the lack of any coherence in the pay structure, bringing with it inherent unfairness and injustices. Performance-related pay, which was largely anathema to the profession when it was imposed, has failed on its own terms, with many teachers and school leaders seeing pay progression blocked even when they have met or even exceeded the objectives that have been set for them. This simply cannot be right, and it brings the system categorically into disrepute.

The NEU, the National Education Union—for which I worked in its predecessor form of the National Union of Teachers, the NUT—is very clear in calling for a national pay structure, with appropriate pay levels and pay progression to embed competitive and fair pay with a rate for the job. There are obvious advantages to such a system. It would assist teacher mobility and career development, allowing teachers to move between schools in the full knowledge of what their pay would be. As a young teacher and even a somewhat older teacher, I benefited from the national pay scales. Teachers, I am bound to say, were not well paid, but at least they knew what they could expect to be paid, both when they began teaching and as they progressed through their career.

It seems no coincidence that both teacher recruitment and retention are suffering under the present system of incoherence and pay cuts in real terms. The National Education Union and other unions have called for a fundamental review of issues relating to teachers' pay. Performance-related pay certainly needs to be reviewed and revised. As my noble friend Lord Watson said, the Welsh Government and an increasing number of multi-academy trusts have already dropped it from any consideration of salaries of teachers whom they employ.

A coherent and fair pay structure would certainly render teaching much more attractive than it is now. While it is not an STRB matter, a root-and-branch reform of Ofsted, whose inspections are leading to an increased exodus from the profession, is also long overdue.

Finally, on timing and consultation for STRB reports in relation to teachers' pay and conditions, these really should be held in term time. I hope that the Minister will agree, given her and other Ministers' often repeated respect for and gratitude to our teachers.

Lord Coaker (Lab): My Lords, I support what my noble friends Lady Blower and Lord Watson, and the noble Lord, Lord Storey, have said.

Among the great casualties of the pandemic over the last couple of years have been millions of schoolchildren —the consequences for them have been enormous. I know that we all agree with that; we will have seen it in our own families, among our friends and so on. To be fair about it, the resilience of children, often quite young children, in the face of really quite staggering difficulty and challenge has been amazing, and they deserve credit for that, as do their families. Alongside that, when they have returned to school, sometimes intermittently, the work of teachers and schools to support them has been phenomenal. Clearly, over the next year or two and beyond, the work of teachers and teaching staff, those supporting schools in the area of special needs, and educational psychologists and so on will be phenomenal. They are fundamental to the recovery plan of the Government.

All of us want that recovery plan to work, so I do not want to get into whether it should be this billion or that billion. But one thing that will be central to it is the status and morale of teachers, and how they feel their Government are respecting them and dealing with them.

As my noble friend Lady Blower said, we can argue whether it should be 3% or 4%, but I would have thought that a standstill, in real terms, for all teachers, is the very least that teachers could expect as we, hopefully,

come out of the pandemic. As I say, morale is important. It is those indefinable things that make such a difference. What I find incredible is that I think the Minister probably agrees, and the vast majority of the Government probably agree, yet it does not happen. To be fair, when I was a Minister I found a disconnect between the public policy outcome and the desire to deliver certain things. Sometimes it just does not seem to happen.

8 pm

The Minister will have to get up and say, "I totally agree with the regret Motion". The regret Motion in the name of my noble friend Lord Watson is absolutely right, because her own department has written to the delegated committee saying, as my noble friend quoted, that it

"would have been ready and happy to publish much earlier than we did"

but was overruled by the Treasury and No.10. That is ridiculous. The Department for Education is saying that it should have published this earlier and that the Treasury and No. 10—the Prime Minister—turned round and said no. It beggars belief. So my noble friend Lord Watson is absolutely right: the Minister cannot do anything other than get up and say she totally agrees with the regret Motion. Or does she disagree with the evidence given by her own department to that committee? It has to be one or the other. So I say to her, "We totally agree with what the Department for Education wants to do and therefore we look forward to the Government supporting the regret Motion".

We will join the Department for Education in taking on the Treasury and the Prime Minister and saying, as the department has, "We totally respect our teachers and understand that to have a consultation taking place within their six weeks' holiday is absolutely ridiculous. Most of the teachers were on holiday. We want them to help us come out of the pandemic; their morale and status needs to be respected. They need a decent pay award and we're not going to do it at a time when they're on holiday". Whatever the outcome, what the vast majority of people want to see is fair play. They want to see people respected and treated properly. That is what the Department for Education wanted and it was overruled.

I was not going to stay and contribute, but when I read the letter I just could not believe that something as stark as that would have been signed off by a Minister. A Minister will have signed that letter off as evidence, or somebody—a senior civil servant—would have signed it off. I have never seen it put as starkly as that. It is not the Department for Education to blame for the teachers' pay award or the consultation process that we have seen; it is the Prime Minister and the Treasury. Unbelievably, they have overruled their own education department. I am sorry to go on about it, but it is absolutely unbelievable, shocking and disrespectful to the department. The Minister will not be able to do this but, being fair, in all honesty she will agree with the regret Motion—the second part of it, if not the first—and regret that it took place over the holiday because that is what her own department's evidence said to the Secondary Legislation Scrutiny Committee.

The Parliamentary Under-Secretary of State, Department for Education (Baroness Barran) (Con): My Lords, I thank all noble Lords who have spoken in this short debate, in particular the noble Lord opposite, the noble Lord, Lord Watson, for tabling the debate. I also thank the Secondary Legislation Scrutiny Committee for its consideration of this order, which came into force this October without objection from either House.

Our priority has always been to ensure that the pay and conditions framework for teachers supports schools to continue to attract, retain and develop the high-quality teachers needed to inspire the next generation. As all noble Lords have noted tonight, I join them in paying tribute to all school staff who have worked incredibly hard, particularly through the pandemic, in enabling schools to remain open and supporting pupils with remote education. I was lucky enough to visit two schools today and was struck by how quickly, seamlessly and calmly they have adjusted to the new challenges of the omicron variant.

As noble Lords may be aware, this order gives effect to the national pay and conditions framework. This follows a well-established annual process of evidence gathering and the independent School Teachers' Review Body making recommendations to the Government, which we then consult on and implement through the statutory instrument. Noble Lords will also know that the review body for teachers is one of a number of similar review bodies reporting on public sector pay to the Government. For example, there are review bodies for NHS staff, the Armed Forces and the police.

Turning the first of the key points that the noble Lord, Lord Watson, raised, I would like to address concerns about the 2021 pay award. As my right honourable friend the Chancellor of the Exchequer set out in his spending review of November last year, in the face of huge uncertainty and the unprecedented impact that Covid-19 had on the economy, the Government took the difficult decision to pause public sector pay rises temporarily for most public sector workforces in the current financial year. This helped protect jobs at a time of crisis and ensured the fairness that the noble Lord, Lord Coaker, referred to between the private and public sectors.

The pause on pay applied only to headline pay uplifts, and teachers earning below the maximum of their pay range were still able to receive a performance-related pay rise. We estimate that as many as half of all teachers may have benefited from this, and the lowest-paid unqualified teachers were also protected by a £250 pay rise. Furthermore, I reassure the House that, as the Chancellor announced in his spending review last month, all public sector workers, including teachers, will see pay rises over the next three years as the recovery in the economy and the labour market allows a return to a normal pay-setting process.

As part of that recovery, schools will receive an additional £4.7 billion in core funding in 2024-25, building on spending plans from the 2019 spending review, which provided the largest funding increase in a decade. This additional funding will help us deliver the £30,000 starting salary commitment for all new teachers. The noble Lord, Lord Watson, rightly raised the point about teaching being an attractive profession for graduates. He will be aware from our recent exchanges

[Baroness Barran]
that we consulted extensively on the £30,000 entry point and felt that it would be truly competitive with other graduate salaries. He also rightly talked about the importance of investing in the profession. We are doing that not only in terms of that commitment to the starting salary but in continuing professional development for teachers both as they enter the profession and throughout their career as they progress into leadership positions.

I heard loud and clear the concerns expressed by the noble Baroness, Lady Blower, about levels of pay and the strong message from the noble Lord, Lord Coaker, about the importance of the signal the Government send to the teaching profession. I would like to think that, more broadly than the Government, there are few families in this country who do not hold teachers in higher esteem at the end of the pandemic than they might have done at the beginning, having attempted to educate their children at home, albeit with support from their local school. In relation to the Government, in 2020-21 schoolteachers received the highest headline pay award of all PRB workforces at 3.1% when inflation was less than 1%, and that came after two years of real-terms pay increases.

We recently debated recruitment and retention in this House, an issue that was raised by the noble Lord, Lord Storey. The number of teachers remains high, at 461,000 across the country, over 20,000 more than in 2010. Some 41,000 new trainee teachers were recruited to start training in 2020-21, a 23% increase on the previous year. The noble Lord, Lord Watson, referred to the STRB report and criticisms that the Secretary of State had constrained the STRB. As I have tried to set out, the teachers' pay process, to which noble Lords referred, is part of a much wider process of public sector pay awards, and for the September 2021 pay award, as I said, difficult decisions had to be taken. However, from September 2022 the STRB will be able to consider pay rises over the next three years as the recovery in the economy and labour market continues. The Government are responding to some of the recommendations in the STRB report, particularly on equalities and teacher well-being and workload.

The other area of concern for noble Lords was the timing of the pay award consultation. As I mentioned, the pay award process forms part of the wider public sector pay review process and, as such, it was necessary for the Government to take a holistic approach to all the pay review body processes and reports, and for each to be considered within the context of the wider public sector pay strategy. In addition, the 2020 spending round delayed the start of the process for the 2021-22 pay round, as the Secretary of State was unable to issue his remit letter to the School Teachers Review Body before the public sector pay policy was announced. As I am sure noble Lords will agree, it is crucial that the annual pay round timetable allows sufficient time for employers, government departments and unions to give evidence to the pay review bodies and for those bodies to carefully consider their recommendations. For 2021-22, this resulted in a summer announcement.

The Government do of course understand the difficulties this imposes on schools in particular, and we will continue to work across government to try to mitigate this in further pay rounds. I am happy to go back and talk to colleagues in the department, as the noble Lord opposite requested.

In closing, I thank all those who have contributed to today's debate. I hope I have gone some little way to reassuring the House that, while difficult decisions have had to be made in respect of public sector pay, the Government are committed to ensuring that the pay and conditions framework continues to help make teaching an attractive career option for graduates and beyond.

Lord Watson of Invergowrie (Lab): My Lords, I thank the Minister for that response; the tone she adopted was helpful. There are some points I would like to pick up, if I may. I think the Minister and I are the only contributors to this debate who were not previously schoolteachers, so the contributions of those who were carry particular weight. I would not disagree with anything that the noble Lord, Lord Storey, and my noble friends Lady Blower and Lord Coaker said, with one exception. The noble Lord, Lord Storey, said that the pay cut affects teachers in maintained schools but in fact, the impact is wider than that. As the Explanatory Notes say, most academies and free schools have the same pay and conditions, so the effect on teachers is quite widely felt.

My noble friend Lady Blower talked about respect and gratitude for our teachers, and the Minister and my noble friend Lord Coaker echoed that. That is almost a given, which raises the question of why the gargantuan efforts made by teachers to keep education going when children were unable to go to school are not reflected in the pay and conditions review of this year.

8.15 pm

The Minister said that the pay pause, as the official government terminology goes, was driven by the need not to disturb the balance of pay levels between the public and private sectors. I can understand that on one level; well, I cannot understand why it would be an issue, but I can understand why it would be an argument. However, most public sector workers continued working during lockdown—I am generalising—and most private sector workers were furloughed. There was no equality there, and I do not think that that would necessarily mean that rewarding public sector workers, who continued to do their jobs in extremely difficult circumstances—and they were often jobs that could not be done from home, almost by definition—would not be justified.

The Minister also said that a £30,000 starting salary was competitive with other professional salaries and was the result of consultation. Yes, it is not uncompetitive for a starting salary, but where is it? As I said, the general election was two years ago this month and it was in the manifesto, but it has not started yet. It is not competitive until it starts to take effect and that is not happening.

On the timing, I am pleased that the Minister will take a lead within her department on changing the date, as I requested, not necessarily putting other pay awards out of kilter, but just moving the date, so that the summer is not in the middle of it. That is positive and we await the result.

This has been a useful airing of a number of issues that are deeply and seriously felt by teachers. The teachers I talk to do not feel sufficiently valued. My noble friend Lord Coaker talked about morale and this obviously eats away at morale, which is not good for the children, who the teachers are there to educate.

I would like to test the opinion of the House. I said that just to see the ashen faces of the Whips on both sides, because I am not going to. I think we would probably win it 6:4 if it went to a vote. But I think it is important that the huge contribution that teachers make is properly acknowledged and rewarded, and many teachers do not feel that that is the case just now. Having aired those issues and heard the Minister's response, I beg leave to withdraw my Motion.

Motion withdrawn.

National Insurance Contributions Bill

Second Reading

8.18 pm

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

That the Bill be now read a second time.

Viscount Younger of Leckie (Con): My Lords, national insurance Bills, as I am sure many noble Lords are aware, occur regularly, often every two to three years, and NICs—as I will refer to them—have been debated countless times in this House since their introduction in 1911.

The Bill before noble Lords today is short but important, and it allows the Government to implement two new national insurance reliefs to support employers to hire new staff and deliver on manifesto commitments. It contains just 14 clauses and introduces four new measures: first, an employer NICs relief for new employees in free ports; secondly, an employer NICs relief for employers of veterans; thirdly, an exemption for test and trace support payments from self-employed NICs; and fourthly, changes to disclosure of tax avoidance schemes legislation with regards to NICs. I will explain each of these measures in more detail.

I will start with the employer NICs relief for new employees in free ports, which is contained in Clauses 1 to 5. This measure will support the delivery of the Government's free ports programme, which will attract new businesses and regenerate communities by creating jobs, boosting investment and spreading prosperity.

Free ports present a great opportunity to drive regional growth, and the Government want as many areas across the UK as possible to benefit, including in Scotland, Wales and Northern Ireland. At the Budget, the Chancellor announced the locations of the first eight free ports in England. These sites, which range from Teesside to Tilbury, will become hubs for trade, innovation and commerce. They will attract new businesses and regenerate communities by creating jobs, boosting investment and spreading prosperity.

Noble Lords will be aware that a large part of the appeal of free ports for employers will be the wide variety of tax reliefs available. The incentives aimed at promoting regional growth include: an enhanced 10% rate of structures and buildings allowance; an increased 100% capital allowance for companies investing in plant and machinery; and full relief from stamp duty on land or property purchases.

In addition to these measures, we are also encouraging firms located in free ports to recruit employees based locally. The employer NICs relief for new workers in free ports, contained in this Bill, will help to achieve this goal, while supporting regional growth. Under this measure, employers with premises in a free port in Great Britain will be exempt from employer NICs on up to £25,000 of a new worker's wages. This legislation applies to all new workers who spend 60% of their working time at a free port tax site in the first three years of employment. The relief will be available from 6 April next year, and it is the Government's intention to make this relief available for up to nine years.

By April 2026—at the four-year mark of the scheme—the use and effectiveness of the relief will be reviewed and a decision will be required by the Government on whether to extend the relief beyond its earliest end date of 5 April 2026. Any decision to extend will be taken only on review of the relief's impact. However, even if the Government decide not to extend the relief, employers will be able to claim it for the full three years on new hires taken on or before 5 April 2026.

Although these measures relate to Great Britain, I assure the House that it is the Government's intention to legislate for this relief in Northern Ireland as soon as it is practicable. The Government remain in constructive discussion with the Northern Ireland Executive about the detail of the offer in Northern Ireland, and it is right that we ensure that the appropriate time is given for these discussions to continue to ensure that the offer is right for ports, businesses and communities in Northern Ireland, and meets our international legal obligations. Noble Lords will be aware that the Bill provides the Government with the power to set out the detail of the employer NICs relief in Northern Ireland in regulations that are subject to the affirmative procedure, once engagement with the Northern Ireland Executive is complete.

I now turn to the measure concerning the NICs relief for employers of veterans, which is contained in Clauses 6 and 7. As Noble Lords may recall, this policy was announced at Spring Budget 2020. It also fulfils a manifesto commitment to reduce employer NICs for a full year for every new employee who has left the Armed Forces, and to support veterans as they transition into civilian life. The UK's veterans have given extraordinary service to our nation, but we know that some face great challenges in obtaining secure and fulfilling employment. It is only right that we do all we can to help them.

As noble Lords will be aware, this House has just passed the Armed Forces Bill, which, among other measures, fulfils the 2019 manifesto commitment to incorporate further the Armed Forces covenant into law. The new provisions in that Bill relating to the covenant are part of Government's programme to ensure that members of the Armed Forces, veterans and their families are treated fairly.

Under this legislation, organisations will not pay employer NICs on earnings worth up to £50,270 in a veteran's first full year of civilian employment. This amounts to a saving of up to £5,500 per hired veteran for the 2021-22 tax year. Indeed, the Federation of Small Businesses has urged

[Viscount Younger of Leckie]
"every small employer to consider the value this relief can bring in helping them take on a new member of staff".

This measure constitutes a real boost to veterans' employment prospects. It should mean that many more businesses benefit from our veterans' brilliant skills and experience.

I turn to the next measure included in this Bill: the exemption of test and trace support payments from self-employed NICs. At every stage of the coronavirus crisis, this Government have done what it takes to support the people of this country. However, if we are to contain the spread of the virus, it is crucial that those told to self-isolate by NHS Test and Trace do so.

Last September, the Government announced the launch of a £500 support payment in England for low-income individuals who had been told to self-isolate but could not work from home and would lose income as a result. As of 17 November 2021, local authorities have reported 362,573 successful claims since the start of the scheme, totalling £181.3 million in payments in England. Happily, the Scottish and Welsh Governments announced similar schemes shortly afterwards.

These payments, which were provided by local authorities, would ordinarily be subject to employee and employer, class 1 and 1A, and self-employed, class 2 and 4, NICs under long-standing legislation. Last year, we introduced secondary legislation to exempt payments under the support schemes from employee and employer, class 1 and 1A, NICs. The measure contained in this Bill will extend this exemption to the self-employed.

This legislation is intended to ensure these workers are treated consistently with their employed counterparts and do not have to pay NICs on support payments. It will therefore retrospectively exempt test and trace support payments from class 2 and 4 NICs for the 2020-21 tax year. It will also ensure that, in future, test and trace support payments will not be included in profits liable to class 2 and 4 NICs.

I turn to the final measure in this Bill: the changes to the disclosure of tax avoidance schemes regime for NICs, contained in Clause 11. Noble Lords may recall that the so-called DOTAS legislation was introduced in 2004. It seeks to provide HMRC with early information about new tax avoidance schemes, how they work and those who use them. The provisions in the Finance Act 2021 enhance the operation of the DOTAS regime, ensuring that HMRC can act decisively when promoters fail to provide information on suspected avoidance schemes.

In this regard, the NICs Bill includes changes to an existing regulation-making power in the Social Security Administration Act 1992. It will also ensure that HMRC can warn taxpayers about suspected avoidance schemes earlier than at present. In addition, this Bill places responsibility for the obligations within DOTAS and any failure to comply with them on both promoters of these schemes and their suppliers. The measure will not adversely impact legitimate businesses giving legal and commercial advice. Only those actively participating in the promotion, marketing or enabling of avoidance will be pursued.

By strengthening the existing anti-avoidance regimes and tightening rules we will ensure that those involved in promoting these unscrupulous schemes face the full consequences of their actions. I assure noble Lords that the Government will continue vigorously to tackle all avoidance schemes and their promoters.

I would like to say a few words about the report of your Lordships' Delegated Powers and Regulatory Reform Committee, which has recently come out. I wish to reassure the committee and noble Lords here today that the Government are carefully considering the recommendations made by the committee. We will write to the committee with our response to the recommendations made, ensuring full transparency, in due course.

I conclude by briefly reminding the House of this Bill's key purposes. It supports regional growth, and with it our levelling-up agenda; it boosts employment, while helping to protect those on low incomes from the financial impacts of Covid-19; and it strengthens our powers to tackle promoters of avoidance schemes. With that, I commend the Bill to the House.

8.30 pm

Lord Davies of Brixton (Lab): My Lords, I thank the Minister, the noble Viscount, Lord Younger of Leckie, for his clear and—given the time—concise exposition of the Bill. I hope that if, in my remarks, I express less than total support, he will not take that personally.

There are many aspects of this Bill that cause me some concern. Maybe there are not many of us left, but I believe in the National Insurance Fund, going back to the National Insurance Acts of the post-war Labour Government—a fund that you pay into while you are at work and that pays you benefits when you are sick, unemployed or retired; a fund that is guaranteed by the Government. Regrettably, it has come to be treated by successive Governments as a catch-all source of short-term political fixes that are nothing to do with a logical system of national insurance. Today's Bill is a prime example.

One point that I particularly regret is the almost complete absence of any sort of financial information on how the Bill will affect the financial state of the National Insurance Fund. To me it is axiomatic that when changes are made to the contributions paid into or the benefits paid from the fund, Parliament should be presented with a report from the Government Actuary. Instead, we have a few figures in the Explanatory Memorandum and a few more—somewhat tardily—in the budget report from the Office for Budget Responsibility. Notably, the OBR spends some time explaining how uncertain the figures are.

None of the figures can be taken seriously, because this is what can be described as "performative legislation". It is not being put before us because there is any sound logical or evidential basis, or even a clear idea of the effect of the legislation. It is just a performance, with the only idea behind it being the political benefit—its source in manifesto commitments gives that game away. It is here only because the Government want to say, "Look, here's what we are doing: we are supporting veterans—who can object? We are promoting economic

development—who can object?" But there is no evidence that it will have any sort of material impact, least of all on the stated objectives.

It is worth reading out the views of the OBR on the freeports issue. It said that

"given historical and international evidence, we have assumed that the main effect of the freeports will be to alter the location rather than the volume of economic activity, so the costs have been estimated on the basis of activity being displaced from elsewhere. To the extent that activity is genuinely additional, it will be revealed in GDP and receipts data over time, though given the small scale relative to the whole economy, such effects would probably be difficult to discern even in retrospect."

So the promise to have a review of the policy is nonsense. We will not have any idea whether it achieves what the Government say it will. This is no surprise. Anyone who knows anything about the history of government efforts to promote local economic development knows that the same mistakes will be made time and again. There are a host of factors that we know lead to additional growth—connectivity is the big one—but relatively trivial tax incentives are way down the list.

I also draw the House's attention to the evidence on the freeport provisions presented to us by the Chartered Institute of Taxation. It raises several technical issues that we will come to in Committee, but there are some more general points which I will paraphrase—these are my words, not the institute's, but my comments are based on its evidence. Its questions are as follows. What evidence do the Government have for believing that these proposals will achieve their intended benefits? What about the risk that economic activity will be diverted from other, fully taxed areas, rather than increased overall? Will the impact not be felt through a rise in commercial property prices in the areas concerned, rather than fully in increased activity? These are serious questions; perhaps the Minister can start to enlighten us on these points.

The truth is that the Government's policy of levelling up, of which freeports are a part, is a slogan in search of policies. However facile the proposal, it is the press coverage that counts, rather than the impact on the ground. The same general point applies to the national insurance relief for veterans. Again, there are technical difficulties that we will have to deal with in Committee but, to put it bluntly, the idea itself is bogus.

Of course, this is no attack on veterans, who deserve our support, but does anyone honestly believe that this policy will make any material difference to their employment prospects? If the Government are serious about the employment prospects of our veterans when they leave service, they should undertake a comprehensive review of the difficulties they face. Education and training opportunities are obviously the key, with direct financial support where necessary—resettlement grants and so on. I have little doubt that a comprehensive review would find that this money would be better spent in ramping up support for the existing services available for veterans. Again, this is all about presentation rather than substance.

Finally, I want to ask a question on Clause 11, about the disclosure of contributions avoidance arrangements. We will of course want to oppose avoidance arrangements for national insurance contributions, just as we are against avoidance arrangements for income tax, and it seems entirely reasonable that the two should be brought in line. But it would be helpful if we knew a bit more about what the Government have in mind here. Are there examples of national insurance contributions avoidance where action has proved difficult or impossible under existing arrangements? More specifically, what about the example of salary sacrifice? These are arrangements that are established specifically to permit employees and employers to pay less in national insurance contributions.

We are in the odd position that some of these arrangements—for example, pensions—get HMRC's blessing, but others do not. It is difficult to see how all the arrangements do not fall, in everyday language, under the heading of avoidance. We need some certainty here. Will the Minister provide us with a clear explanation of what impact Clause 11 is intended to have?

8.38 pm

Lord Bilimoria (CB): My Lords, on 7 September, as president of the CBI, I spoke of the Government's plan for social care reform and funding and said:

"There is genuine consensus in the country that social care reforms and greater investment are long overdue.

Businesses accept difficult choices need to be made, but are already set to be hit by a substantial rise in corporation tax in 2023.

After all that business has gone through during the pandemic and the fantastic Government support that followed, now is not the time for tax increases. It's time to stimulate investment and growth in the economy.

National Insurance increase will directly hurt a business's ability to hire staff, at a time when businesses have faced a torrid 18 months and are now fighting crippling labour shortages.

Government must be wary of heaping further pressure on businesses who will be central to the recovery, particularly by making it more expensive to recruit."

I said at that time that this autumn and winter

"will be a critical period if we are to drive a sustainable recovery. The Government must use all the levers it has in its power to encourage more businesses to invest in the months to come and do everything it can to encourage growth."

That is exactly what the Minister said when he said that parts of this Bill support regional growth.

The National Insurance Contributions Bill introduces new measures regarding national insurance contributions. National insurance is a tax on earnings—some people call it a tax on jobs. It raises huge amounts for the Exchequer. National insurance contributions were forecast to raise almost £150 billion in 2021-22, so they are one of the main ways in which tax is raised.

As I mentioned earlier, on 7 September the Government announced plans to increase the funding of health and social care through a new tax: the health and social care levy, which will be applied from April 2022 via 1.25 percentage point increases on national insurance for employees and employers. The Bill is of course separate from these rises.

Of course, the Bill introduces relief for employers based within free port tax sites. As the noble Lord, Lord Davies, just mentioned, it also introduces national insurance contribution relief for employers of ex-servicepeople. Anything that the Government can do to help them is brilliant, and I applaud them for making an effort.

[Lord Bilimoria]

There are eight new free ports that would be hubs for trade and help to regenerate communities. Of course, we know that, for the eight in England, the successful bidders have been East Midlands Airport, Felixstowe and Harwich, Humber, Liverpool City Region, Plymouth and south Devon, Solent, Teesside and Thames. I have personally met with the young mayor of Teesside, Ben Houchen, who is championing his area, and I heard first-hand about his exciting plans for increasing investment in Teesside, including with the free port.

Clause 1 will allow an employer to qualify for a zero rate of secondary class 1 national insurance on the earnings of an employee at a UK free port site. This would be zero up to the UST, which has been set at £25,000. This was challenged in the debate in the other place, and I ask the Minister: why is it £25,000? In areas where there are other relief schemes, it is set at over £50,000. The more generous it is, the more it will attract investment—if that is the objective, should we not do that? For ex-service personnel, the NIC relief is only for 12 months, while for the free port scheme it is three years. Why cannot the relief period for ex-servicepeople be longer?

The principle of free ports is to encourage investment, including by reducing taxes, to generate growth and jobs and, therefore, eventually raise more revenue. The Bill could have gone so much further in incentivising investments and reducing taxes. There is much research from around the world that shows that lowering taxes actually increases growth. I cite Mertens and Olea: a one percentage point decrease in tax increases real GDP by 0.78% by the third year after the tax change. In America in 2019, Zidar found that a tax decrease of 1% of state GDP for the bottom 90% of earners increases state GDP by 6.6%. I could go on. In 2018, Ljungqvist and Smolyansky looked at 250 state corporate tax changes from 1970 to 2010 to assess their impact on employment and income. They found that a cut of one percentage point in statutory corporate tax leads to increases of 0.2% in employment and 0.3% in wages. They find tax increases almost uniformly harmful, while tax cuts seem to have their strongest positive impact during recessionary environments.

Of course, the most famous of them all is Arthur Laffer, the American economist. The Laffer curve suggests that when the tax level is too high, lower taxes will boost government revenue and create higher economic growth. This theory formed the basis of the growth that took place in the 1980s with so-called Reaganomics, which saw low levels of inflation, a steep rise in private investment and rising incomes. In fact, between 1982 and 1990, the foundations of the Laffer curve enabled the second longest peacetime economic expansion in the history of the United States. Of course, Arthur Laffer advised President Reagan and Margaret Thatcher.

In this country spending is at its highest level since the 1970s and the tax burden is the highest in 70 years. Inflation has already hit 4.2%, and the Resolution Foundation estimates that real wages in 2024 will be just 2.4% higher than in 2008, compared with a 36% rise in the 16 years before the financial crisis. In 2016, the IMF said that austerity policies do more harm than good.

In September, the CBI's director-general, Tony Danker, gave a speech on business investment. He said we should be doing everything we can to flip business taxes on their head and reward firms which invest; that is essential to high growth and a sustainable recovery. He said that one of the key levers the Government can use to get businesses investing more is smarter taxation. They should reward the firms which invest and stop punishing, for example, greening UK building stock through business rate increases. Does the Minister agree that the business rates system is not competitive and needs huge reform? Does he agree that business investment in the UK has been seriously underpowered since the 1990s? It has deteriorated from 14.7% of GDP in 1989 to a low of 10% at the end of 2019. Of course, we have had the pandemic, and we are still set to be 5% below our pre-Covid levels by the end of 2022. So, we need to do everything we can to increase investment.

However, between 2021 and 2025, the UK Government are projected to invest an average of 3.4% of GDP, compared to 3.9% in America, 4.1% in Canada, 5.9% in Japan and 9% in China. In 2019, net zero and green spending represented 3.8% and 1.8% of the US and EU economies, compared to just 0.55% for the UK's climate funding. So, we have a huge opportunity here. The Government's innovation strategy says all the right things to capitalise on the UK's potential to be a global innovation hub and leader, but the ambition needs to be backed right now.

Our business rates are four times higher than Germany's, three times higher than the OECD average and higher than those of any other G7 country. Surely, we need to do things such as reform business rates to increase investment. We invest 1.7% of our GDP in research and development and innovation. In 2019, the figure in Germany was 3.2% and 3.1% in the US. Just imagine the impact on our productivity if we invested just one percentage point more.

To conclude, one of the objectives of the Bill is very important, but I do not think it is going anywhere near far enough to genuinely increase investment. The Government say they want a high wage, high growth, high investment, high productivity, high skill economy. I agree with that 100%, but right now we are facing a high tax economy, including the planned corporation tax and national insurance increases, the business rates I have just spoken about and the highest tax burden in 70 years. We need to stop hiking taxes and focus on boosting investment, because that will create the jobs that will pay the taxes that will pay for the debt.

8.49 pm

Lord Sikka (Lab): My Lords, this Bill hangs on the failed concept of free ports, which are effectively a state within a state where vast amounts of money are showered on few, with little, if any, tangible benefits for the public at large.

We have had free ports before. They were created under Section 100A of the Customs and Excise Management Act 1979. Seven operated at various times between 1984 and 2012. In July 2012, the Government let the enabling statutory instrument lapse. Freeports morphed into enterprise zones, and many of those still exist.

In May 2014, the House of Commons Public Accounts Committee's report, *Promoting Economic Growth Locally*, concluded that the Government's claims of job creation in enterprise zones were "particularly underwhelming". The Government promised 54,000 new jobs in these zones. BBC-commissioned research found that by 2017, only 17,307 jobs had been created against that claim of 54,000. These jobs were created in 24 zones, and in two others, the number of jobs actually fell. The Government seem to forget that it is investment in education, healthcare, social infrastructure and equitable distribution of income that gives people the spending power with which to buy goods and services. All these things are neglected by the Government. Unsurprisingly, these jobs were never fully created. I look forward to having a debate with the noble Lord, Lord Bilimoria, about the Laffer curve, one of the overstated theories that I would love to debunk. However, that will have to wait for another day.

This history of failures of the enterprise zone and freeport zones informs the OBR's assessment. Page 211 of its commentary on this year's Budget, it says that there is

"broader uncertainty around how much of the economic activity that takes place within a freeport will have been displaced from other UK regions and how much is genuinely additional".

In the light of that, it would be helpful if the Minister can provide an impact assessment of the Bill assessing the gains, or the assumed gains, in freeports, and the losses that will be caused to other parts of the economy. What will happen to the towns that lose some of their economic activity to freeports?

The zero-rate contribution mentioned in the Bill is available to an employer other than a public authority. This is very strange. The Bill says that "public authority" includes any person whose activities involve the performance of functions which are of a public nature. It is hard to think of any entity which does not do anything of a public nature these days. This definition is not helpful at all. Many public functions are outsourced these days. Would a company performing public functions be precluded from making zero-rate contributions? An energy company located in a freeport zone can enjoy the benefit of the zero-rated national insurance under the Bill, but if a local council becomes an energy supplier, as many have in recent years, I do not think that it would then qualify under this Bill for the zero-rate national insurance contributions.

The Bill does not provide any clarity on the concept of public authority, and it is also utterly unfair. I hope the Minister can shed some light on this. Why is it that a company that might provide energy, cleaning, lighting and other services can somehow get zero-rate contributions, but if a local authority does the same, it will not?

The Government have not published a full impact assessment of the Bill. What will be its impact on the national insurance revenues, a point already touched on by my noble friend Lord Davies of Brixton? On page 11, the Explanatory Notes accompanying the Bill estimate the cost of the

"zero-rate secondary Class 1 Contributions for armed forces veterans"

over the next three years to be £55 million. However, for the zero-rate secondary class 1 contributions for freeport employees, which is a major part of this Bill, the Explanatory Notes say:

"This measure is expected to decrease receipts. The final costing will be subject to scrutiny by the Office for Budget Responsibility and will be set out at a future fiscal event".

This is not satisfactory. Do the Government not have any idea of the cost of this policy? Why are they giving national insurance concessions to a select few without knowing the full cost?

The Treasury Red Book shows that the cost of free-port tax perks, which includes

"reliefs on Stamp Duty, Enhanced Capital Allowances … NICs and Business Rates"

over the next five years is £270 million. These numbers could not have been calculated without some assumptions about the number of jobs, the details of national insurance and other things. What assumptions did the Government make in coming up with these numbers? I invite the Minister to share the information with us, so that we can see how realistic the Government's numbers are.

The Bill is offering a national insurance holiday to employers, which will result in lower revenues in the National Insurance Fund account. However, the Bill does not require the Government to remit or repay the cost of the national insurance concessions to the National Insurance Fund account. The net result is that this Bill will reduce the amount deposited in the National Insurance Fund account, or the surplus in it, and will reduce the ability of the account to pay state pensions and other benefits in the future. The cost of the Government's ideological experiment is being borne by the poorest and vulnerable sections of our society. There is a wealth transfer from the poor and the vulnerable to a select few corporations. What is the justification for this wealth transfer? If the Government want to give a holiday, then please pay directly into the National Insurance Fund account.

The disclosure of tax avoidance schemes—DOTAS—was originally introduced in 2004, and the new measures are outlined in Finance Bill 2021. As the Minister said, they will now apply to cases of national insurance avoidance. But in the absence of robust enforcement, it is unlikely to yield significant results. That has been the case with tax abuses. The Government have been very soft on big enablers of tax abuses. Ministers constantly refer to laws tackling tax abuses, but it is the enforcement which is a big problem. If the Minister disagrees with my assessment, then I invite him to name any big accounting firm which has been investigated, prosecuted or fined after the courts judged that it had peddled unlawful tax avoidance schemes. One example will do, and if the Minister gives me an answer, I think that will be my lucky day and I will rush out and buy a lottery ticket—I can assure you of that.

The Government actually reward these firms with public contracts. The partners of the big four accounting firms have chaired and sat on the board of HMRC, while they have been simultaneously selling unlawful—that is what the courts have decided—tax avoidance schemes. Their partners sit on the general anti-abuse rule advisory panel, often known as the GAAR panel. They determine

[Lord Sikka]
what counts as abusive. When I look at these arrangements, the phrase "foxes guarding the henhouse" comes to mind. I would like to hear what exactly the Minister is going to propose to deal with this.

Perhaps nobody will go out to avoid national insurance contribution payments because the Government already facilitate luxuries for the rich. The wealthy can easily convert their income to capital gains. Capital gains are not only taxed at a lower rate than earned income, but there is no national insurance payable on them at all. This favour to the rich, just on capital gains, costs us around £8 billion a year. We can see that the Government are enabling the rich to avoid paying national insurance. Why are these concessions given? Could the Minister please tell us why there is no national insurance on unearned income at all in this country?

8.59 pm

Baroness Kramer (LD): My Lords, this may have been a short debate but, my goodness, it has been a full one. I feel rather privileged to be one of the winders.

I want to open with a point made by the noble Lords, Lord Davies and Lord Sikka, on the integrity of the national insurance contributions fund. Like them, I am troubled. The fund was created primarily to pay the state pension; that is its primary role. Compared to most other developed countries, the basic state pension in the UK is very low. Pensioners will face a particularly harsh 2022 because increases have been detached from earnings growth. It adds to my concern that the Government are now choosing to use that fund as a piggy bank for all kinds of other purposes. There will be a new NICs levy to fund the NHS and perhaps, eventually, social care; I suspect that we will see that money constantly having to go to the NHS so we will have to think again about social care, but so be it. This money for the NHS and social care should have been raised through income tax for a whole variety of reasons that I will not reiterate here but which we have discussed in this House before.

I also become increasingly concerned when I see NICs holidays to support niche activities, such as free ports, while at the same time the NICs burden for SMEs—the noble Lord, Lord Bilimoria, raised this issue—is increasing across the country. Again, like the noble Lords, Lord Sikka and Lord Davies, I very much hope that the Minister will finally tell us exactly how much the NICs relief for free ports will cost in forgone revenues because I cannot tease it out of any of the figures that we have been presented with in the Red Book or by the OBR.

Free ports are, by definition, free trade zones. I know that the Chancellor has a particular passion for them but he is making a serious mistake. Even those who are fans of free ports admit that, as free trade zones, they create new jobs only in countries where tariffs on intermediate goods are normally high. The United States is a good example of a country with high intermediate tariffs, which is why free ports have been popular—and, some would argue, successful—there. In the UK, tariffs on intermediate goods are either non-existent or tiny. The savings on duties are negligible. Indeed, these tiny savings will be completely wiped out by the new costs of trading with the EU. Can the Minister confirm that the port operators were correct when they recently told the European Affairs Committee that the costs of the new port infrastructure needed for the new checks as a consequence of Brexit will all fall on port operators? Are the free port operators going to pick up their share of their charges, or will they be exempt and their share picked up by other operators?

There are no meaningful benefits to removing duties, which is normally the essence of a free port. Of course, that is why the Government are now offering a raft of various other tax reliefs, including NICs holidays; it is really an attempt to salvage the free port project. The primary effect will be to favour the initial free port locations —of which there are eight so far—thus cannibalising the prospects of similar or even more disadvantaged areas. During the coalition—I do not hesitate to criticise things that the coalition Government did not get right—the Treasury created enterprise zones; as proposed, the free ports are barely different from enterprise zones. Only a quarter of the predicted jobs were created and, of those, a third came as a result of displacement; I take my information from a study by the Centre for Cities, which is a good and respectable source.

Overwhelmingly, the jobs created were low-skilled jobs. Indeed, interestingly, the NICs relief in this Bill is for low-paid jobs only, as others have pointed out. That tells you everything about the true expectations of this project. It will be a low-skill, low-job set of operations. Again, I will not repeat the OBR quotes mentioned by the noble Lords, Lord Sikka and Lord Davies, but, as far I can tell, essentially it says that it considers that the return from the free port investment will be so small and negligible that it is not even worth putting it into its forecast numbers.

The Government's free port package promises users a vague array of benefits other than tax release, but I noticed one especially, which is deregulation. It is not yet specified how that deregulation will work. The UK is already a hub for money laundering and free ports of all kinds are notorious for their appeal to cheating and crime, not least because the absence of tax and duties enables the ownership of goods to be concealed. It is virtually impossible for enforcement agencies to be effective in a free port, which is one of the reasons why free port legislation was allowed to die on the vine, in the UK. The Government say that the absence of rules will lead to innovation. I am all in favour of innovation, but not in tax avoidance, money laundering, substandard products or the transfer of stolen assets.

In looking at other parts of the Bill, I support the proposal for NICs relief for ex-services personnel, but I join others in asking whether 12 months is long enough to encourage hiring sufficiently. I pick up the point of the noble Lord, Lord Davies, that this should be part of a holistic programme to help ex-servicemen to achieve that change into civilian life and not just one isolated measure hanging there alone. I also fully support the exclusion from NICs of income for the test and trace self-isolation support system.

However, I would like to ask some questions about the implications of extending the disclosure of tax avoidance schemes—DOTAS—to cover NICs. I take

the Minister at his word, because it makes sense, that this is intended to be targeted at the promoters of wrongful avoidance schemes. I am delighted if they are being tackled more effectively. As the noble Lord, Lord Sikka, said, there are 20 or 30 promoters still out there, which the regulators have completely failed to lay their hands on in any way. Anything that can be done to tackle the promotion of wrongful avoidance schemes has to be positive.

I just want to be sure that this does not have implications for small businesses that hire freelance contactors and that no new burdens will be placed on the freelancers themselves. We have so many questions surrounding IR35 and this issue can be woven and caught up in parts of that, particularly for freelancers who work through personal services companies. I have put that question to HMRC; I do not know whether it reached the Minister and suggested that he might mention it. I hope at some point to hear from HMRC, but the Minister might be able to give me more immediate enlightenment.

I close by saying that I am convinced by the Delegated Powers and Regulatory Reform Committee's assessment of the Bill and the need, in Committee, to deal with Henry VIII and other powers in ways that provide more parliamentary scrutiny. I very much hope that the Minister's statement that the Government are taking that report seriously and will potentially come forward with proposals meets the test that we are all looking to satisfy.

9.08 pm

Lord Tunnicliffe (Lab): My Lords, this has been a short but interesting debate. There has been a heavy focus on the Government's policy on free ports, the first of which has now opened on Teesside. Seven more are due to follow, after sites were confirmed in the Spring Budget. Perhaps the Minister could provide an update on the status of these sites today. It will be interesting to see how free ports operate in practice. There is no doubt that they have potential benefits in jobs, economic activity and infrastructure improvement. However, it is unclear to what extent they are merely displacement benefits and there are certainly risks, as the noble Baroness, Lady Kramer, pointed out, of tax evasion, smuggling and other forms of criminal activity.

In the other place, the Government opposed a sensible Labour amendment to the Finance Bill, which would have required transparent evaluation of the success or otherwise of each individual site. That would have given us a clear picture of exactly where benefits are being derived and the extent to which they exist. It would also have given the Government much needed data to inform any tweaks to policy in the months and years ahead. Can the Minister inform your Lordships' House of exactly how the ongoing balance of opportunity and risk will be reviewed and reported on? Will Parliament be given information and, if so, at what frequency and in what form? If not, why not?

Turning to the Bill, Clauses 1 to 5 introduce NICs relief for employers based in free-port tax sites. Such relief lasts for three years but, presumably for reasons of expediency, applies only to employment commencing from April 2022. With the Teesside site now operational and others due on stream soon, does the Minister not think that it is counterproductive to exclude these key early months? Does he foresee a situation in which employers delay recruitment?

Clauses 6 and 7 introduce a one-year period of NICs relief for employers of Armed Forces veterans to assist ex-service personnel in their transition back to civilian life. It is no secret that I believe the Government have a range of duties towards our service personnel and veterans. Supporting veterans into lasting work is one of those. The relief forms one part of that duty but its time-limited nature is a cause for concern. In the Commons, Sir Mike Penning observed that the first 12 months outside the forces is the most challenging period for former service men or women. In many senses, it is a case of sink or swim. That may be true and we welcome the temporary NICs relief, but the Government have thus far been unable to justify why free-port firms should enjoy three years of relief—the Minister hinted at a longer period—compared to those hiring ex-service personnel. Would the noble Lord the Minister care to have a go today?

The changes made in Clauses 10 and 11, bringing the self-employed into NICs relief for test and trace support scheme payments and extending the disclosure of tax avoidance schemes rules to NICs avoidance, are welcome. As I have made clear on several occasions, we do not feel that the Government do nearly enough to tackle or otherwise disincentivise tax avoidance, which deprives our public services of much needed funds. This measure provides HMRC with a further tool, which is positive, but can the Minister comment on what gains are expected from this change in each tax year? Some in the sector have expressed concern that the Government's actions on tax avoidance are limited in scope and ambition, and have reached the point where they are achieving diminishing returns. The Bill may not be the right vehicle to discuss the ways forward but I hope that the Treasury and HMRC are able to broaden their horizons.

Indeed, the recently leaked Pandora papers once again highlighted the sheer number and complexity of tax avoidance arrangements. Those revelations arguably strengthen the case for a change of approach. In response to the emergence of those documents, Mr Sunak pledged that the Government would look through them,

"to see if there's anything we can learn."

That does not relate directly to NICs, so I will not ask the Minister to comment now but will he be kind enough to provide a written update on that project?

We did not oppose the Bill in the Commons and have no intention of doing so here. It has already had a long gestation period, having trundled through the other place over the course of many months. While there are areas where we would like clarification from the Minister, it is not the role of your Lordships' House to unduly hold these measures up. I hope, however, that the Government will engage meaningfully with the Delegated Powers and Regulatory Reform Committee, which has made several modest recommendations. I look forward to the Minister's response on the range

[LORD TUNNICLIFFE]
of issues raised throughout this debate and would appreciate correspondence on any topics he is unable to cover in his winding speech.

9.15 pm

Viscount Younger of Leckie (Con): My Lords, this debate was initially down to have at least a dozen speakers. I am sorry to say that, as the day has worn on—for a very good reason, I am sure—the number of speakers has somewhat diminished. I am sure that they will reappear in Committee and we will have a greater number of Peers interested in this important Bill.

I will start by addressing some of the remarks of the noble Lord, Lord Davies. He gave me due warning of his remarks at the beginning of his speech but, as he will expect, I do take issue with quite a lot of the overly pessimistic comments he made. He said that this was not to do with national insurance and indicated that it was very much a PR exercise and simply a presentation. He is nodding at that. I am afraid that I do take issue with that, but of course it is up to me to prove today and particularly in Committee that this is not the case and that the matters we are bringing forward on this Bill are serious and have serious points and facts behind them.

I gently point out to the noble Lord that the Bill passed through the Commons with just one minor government amendment, which corrected a reference to another Act. On his point about the evidence of free-port clauses working, he will know that Labour tabled some amendments but ultimately withdrew them. That was on the basis that the Government argued they were unnecessary, as we have already indicated that we will review the effectiveness of the NICs relief before deciding whether to extend it.

On that, to answer the point made by the noble Lord and the noble Baroness, Lady Kramer, on whether the NICs relief will be an effective use of taxpayers' money—which frankly is a fair question—the relief will significantly reduce the cost of taking on new employees and doing business in a free port. This, along with other reliefs being offered as part of the wider package that I mentioned in opening, will support businesses setting up and expanding in free-port tax sites.

The take-up and use of NICs relief in free ports will be monitored to ensure that it is having its intended effect. The Government have written a sunset clause into legislation that will allow us to review the relief's effectiveness after four years and make a decision on its continuation accordingly. The noble Lord, Lord Sikka, asked about an impact assessment. I steer him towards the fact that a tax impact and information note—a TIIN—has been published alongside this Bill. If he has not seen it, I am more than happy to make him aware of it.

A number of questions, some quite technical, were raised in the debate and I will do my best to answer them. First, on free-port costing, which was very reasonably raised by the noble Lord, Lord Sikka, the OBR approved costings, including estimates, for all the tax and customs reliefs within the wider free-port offer. The programme is at an early stage of delivery, with the first sites beginning operations last month, but we have already seen significant investment. So there is more to come, but the noble Lord's question is a fair one.

The noble Lord, Lord Davies, asked specifically about the link between NICs and benefits. The National Insurance Act and the National Assistance Act established the modern welfare state that continues today, as he may know. National insurance continues to fund contributory benefits, including the state pension. NICs receipts are paid directly into the National Insurance Fund and are kept completely separate from all other tax receipts.

The noble Lord, Lord Sikka, asked why NICs are not on unearned income. NICs is part of an earnings replacement scheme to provide help to workers when they are unable to work or retired. Unearned income is excluded as it does not rely on a person's labour.

The noble Lord, Lord Davies, asked about the design of free ports and whether they will displace economic activity from other local areas. Our focus is on encouraging new investment from around the world and within the UK to create new businesses and new economic activity in free ports. This will create jobs in deprived communities across the country rather than harmful displacement. Employer NICs relief can be claimed only for new employees, encouraging employers and businesses to grow and create new jobs rather than relocate existing ones.

Finally, when designating free ports, the Government require bidders to explain how their choice of tax site location minimises displacement of economic activity from wider local areas, especially other economically disadvantaged areas. Displacement will be assessed in greater detail as part of the formal tax site approval process. Tax sites will be designated only once mitigation of displacement and other factors has been demonstrated by the successful bidder.

Lord Sikka (Lab): The Minister just said that we do not charge national insurance because unearned income is not the result of labour. Many a person, instead of taking wages, draws dividends, which are inevitably the outcome of the investment of human capital—labour—yet there is no national insurance on dividends either, which is another example. Could it be that there are other ideological reasons why the Government do not levy this, rather than simply the investment of human capital? I agree that from 1911 onwards, when national insurance appeared on the scene, the focus initially was on employment, but we have moved a long way away from that. I wonder whether we can have this debate another day, if not today.

Viscount Younger of Leckie (Con): I would be more than happy to do that. The noble Lord takes a slightly cynical view of this. We need to go back to the basics of what the Government are trying to do with this, which is to encourage more jobs and investment into these free-port areas. It is really as simple as that. I am more than happy to debate the rationale behind the detail in Committee, but I hope the noble Lord takes me at face value on that point.

The noble Lords, Lord Davies and Lord Bilimoria, asked whether the policy will be effective in encouraging the employment of veterans and whether it is appropriate to target this type of support to veterans. The House will know that some veterans will face particular difficulties in accessing the job market due to injury or trauma suffered in the course of duty; the noble Lord, Lord Bilimoria, alluded to that. These veterans will benefit most from the measure. Given that securing stable and meaningful employment is a key aspect of a veteran's transition into civilian life, the Government wish to reward employers who facilitate this.

The noble Lord, Lord Tunnicliffe, asked about the status of free-port sites in England. I hope I can address this with some detail. At the Spring Budget, the Chancellor announced eight free ports from eight regions of England following a fair, open and transparent assessment process outlined in the bidding perspective. That included East Midlands Airport; Felixstowe and Harwich, the so-called Freeport East; the Humber; Liverpool City Region; Plymouth and south Devon; Solent; Teesside; and Thames. The first free-port tax sites in Humber, Tees and Thames went live on 19 November. This ensured that those free ports were able to begin initial operations last month, meeting our commitment to get free ports operational in England this year. The Government will continue to work with the remaining free ports and expect the next set of free ports to begin operations in early 2022.

The noble Lord, Lord Sikka, asked how free ports differ from previous free ports. Prior to 2012, the UK had five free ports offering only customs and tariffs benefits, similar to the duty referral on customs warehousing schemes subsequently introduced by the EU. This did not offer any direct tax incentives, so stakeholders indicated that this policy offer was not a substantial enough incentive to invest in these free ports, given its widespread availability outside these free ports. The new free-ports offer provides a more attractive overall package of incentives for businesses. Businesses will be able to take advantage of five tax reliefs and a range of customs incentives, as well as to benefit from a package of other measures that support the development of free ports and make them attractive places to do business, including infrastructure funding and planning measures.

The noble Lord, Lord Sikka, asked why public bodies are excluded from the free-ports relief. I probably alluded to this earlier. The aim of the policy is to boost growth in undeveloped areas, not to subsidise public bodies.

The noble Lord, Lord Tunnicliffe, asked how the ongoing balance of opportunity and risk can be reviewed and reported, and whether Parliament would be given the information on the frequency of this. He essentially asked: if not, why not? This relief will significantly reduce the cost of taking on new employees and doing business in the free port, along with other tax reliefs, which I mentioned earlier, being offered. The take-up and use of NICs relief in free ports will be monitored to ensure that it is having its intended effect. I mentioned earlier that we have the sunset clause, which I have covered. More information on assessments will be available in the free ports monitoring and evaluation—M&E—strategy, which, to reassure the noble Lord, will be published in spring 2022. The Department for Levelling Up, Housing and Communities, as the department responsible for the delivery of free ports, is leading the monitoring and evaluation but working closely and collaboratively across government to ensure robust and rigorous evaluation.

The noble Lord, Lord Tunnicliffe, also asked about any delay in implementing the free ports recruitment. Our focus is on encouraging new investment from around the world and within the UK to create new businesses and new employment. The Government have been clear that this relief is available only on new hires from April 2022 and have set this out in the *Freeports Bidding Prospectus* published in the autumn of 2020. Having a clear start date is, I think, the answer to his question, as it is a simple approach that will support the free-port businesses. There are complexities with HMRC, I understand, so this cannot be set up earlier than the date the noble Lord mentioned.

I go back to veterans relief—I am chopping and changing slightly here. The noble Lords, Lord Tunnicliffe and Lord Bilimoria, and the noble Baroness, Lady Kramer, asked about veterans relief and why it was for only one year compared with that for free ports, which is, as we know, for three years. I think I can answer this by saying that the policy intent for the two reliefs is different, so the structures of those reliefs are also different. The aim of the free-port relief is to support new businesses in the free-port tax site with the cost of employment to boost growth in and around the free port. Therefore, the free-port relief provides more sustained support for the lower upper threshold. The aim of the veterans relief is to support veterans' transition into civilian life through employment. The veterans relief therefore provides a greater immediate incentive for employers to hire a veteran

The noble Lord, Lord Bilimoria, asked why the free-port relief was only £25,000 but the veterans relief is up to £50,270. The veterans relief has been kept in line with similar reliefs that aim to boost employment of a particular group of people—for example, those aged under 21 or apprentices aged under 25. The free-port relief has been designed to support new businesses during their infancy. A policy decision was made to make the relief available for a prolonged period and therefore, in fairness to other taxpayers, the threshold of this relief is lower.

I move on to the DOTAS regime, raised by the noble Lords, Lord Davies and Lord Sikka, in terms of additional powers. DOTAS has been in play for several years, which has led to many promoters leaving the avoidance market. However, a small number of determined promoters continue to sell tax avoidance schemes and use delay and obstruction to frustrate HMRC action against them. The new powers modernise DOTAS and allow HMRC to tackle these promoters at an earlier stage. They also allow HMRC to better inform taxpayers of potential schemes through earlier publishing of scheme and promoter details. This will better inform taxpayers of the potential risks that they face and help them to steer clear of these schemes.

The noble Lord, Lord Tunnicliffe, linked with the noble Lord, Lord Sikka, asked about the gains expected from the change in each tax year. The aim of DOTAS is to ensure that HMRC gets the information about the schemes, so that it can take appropriate action.

[Viscount Younger of Leckie]
Those who devise and sell avoidance are always looking for new ways to sidestep the rules, so legislation needs to be refreshed to stay ahead of them.

The noble Baroness, Lady Kramer, asked about the NICs relief attracting low-value-added, labour-intensive jobs. I can give a fairly full answer to that, which is that the free ports policy, taken overall, aims—as I said earlier—at regenerating deprived areas through investment and job creation; that means quality jobs in high-value-added industries.

Free ports will offer a number of benefits for firms, including specific issues such as: simpler import procedures and suspended duties in customs sites to help businesses trade; planning changes to green-light much-needed development; spending to invest in infrastructure; and a free port regulatory engagement network to help regulators and firms work together to test new technologies safely and effectively. As well as enjoying enhanced structures and buildings allowance, and generous stamp duty and business rates relief, employers in capital-intensive sectors will benefit in particular from enhanced capital allowances that relieve 100% of qualifying expenditure in the first year on plant and machinery for use within free port tax sites.

Baroness Kramer (LD): The Minister may not have the answer to this but I want to repeat the question. As I say, port operators reported to the European Affairs Committee of this House that they had been told by government that they would bear the full costs of putting in place the facilities for the new checks that are required to export to the EU. Within the free ports, people will presumably intend some of that product to be for export to the EU, so they will therefore need to have facilities for these new checks. If the Government do not intend to pick up that tab, will the operators in the free ports do so or will the cost be passed to operators of other ports as a kind of additional cost that will fall on them in order to subsidise the free ports? I am just not clear about that.

Viscount Younger of Leckie (Con): I was not aware of the first part of the noble Baroness's question but I will certainly look into that and write to her on the specific issue.

On the report of the Delegated Powers and Regulatory Reform Committee, which was mentioned by a couple of Peers, I repeat what I said earlier on this, which is very important. The Government are carefully considering the recommendations made by the committee and we are taking what it said with the degree of seriousness that it deserves. As I said earlier, we will write to the committee and keep the House informed on progress there.

Lord Tunnicliffe (Lab): Will that response come in time for us to take account of it as the Bill goes through?

Viscount Younger of Leckie (Con): I asked about that, so I will say yes; we want to get a response as soon as we can. I do not yet have the dates for Committee but I should press to say that we want to get this as soon as possible, and certainly well before Committee.

I will conclude by talking about a point that was raised by the noble Lord, Lord Bilimoria, about investment in the UK, which is a bigger issue that he raised. There are very many reasons to be positive about the UK economy. We have been talking about free ports and NICs relief, but both the OECD and the IMF are forecasting that the UK will have the highest annual growth in the G7 this year. Decisions this Government have taken have provided around £400 billion of direct support to the economy during this year and last year, and the Bill helps towards that.

I thank all noble Lords for their comments. As the noble Baroness, Lady Kramer, said, this was a short debate but it has been quite intense and extremely helpful. I greatly look forward—

Lord Davies of Brixton (Lab): Before the Minister concludes, does he have a reply on the salary sacrifice point? I will be happy to take a letter.

Viscount Younger of Leckie (Con): Absolutely; I will look at *Hansard* to check on all the questions raised. I suspect that there were one or two that I have not responded to, and I will certainly write as soon as I can to respond to them. With that, I commend the Bill to the House.

Bill read a second time and committed to a Grand Committee.

House adjourned at 9.34 pm.