Vol. 816
No. 85

Friday
3 December 2021

PARLIAMENTARY DEBATES
(HANSARD)

HOUSE OF LORDS

OFFICIAL REPORT

ORDER OF BUSINESS

Lords wishing to be supplied with these Daily Reports should give notice to this effect to the Printed Paper Office.

No proofs of Daily Reports are provided. Corrections for the bound volume which Lords wish to suggest to the report of their speeches should be clearly indicated in a copy of the Daily Report, which, with the column numbers concerned shown on the front cover, should be sent to the Editor of Debates, House of Lords, within 14 days of the date of the Daily Report.

This issue of the Official Report is also available on the Internet at
https://hansard.parliament.uk/lords/2021-12-03

The abbreviation [V] after a Member's name indicates that they contributed by video call.

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

No party affiliation is given for Members serving the House in a formal capacity or for the Lords spiritual.

House of Lords

Friday 3 December 2021

10 am

Prayers—read by the Lord Bishop of Lincoln.

Death of a Member: Lord McKenzie of Luton

Announcement

10.05 am

The Lord Speaker (Lord McFall of Alcluith): My Lords, I regret to inform the House of the death of the noble Lord, Lord McKenzie of Luton, yesterday, 2 December. On behalf of the House, I extend our condolences to the noble Lord's family and friends.

House of Lords (Hereditary Peers) (Abolition of By-Elections) Bill [HL]

Second Reading

10.06 am

Moved by ***Lord Grocott***

That the Bill be now read a second time.

Lord Grocott (Lab): My Lords, it is my pleasure to present to the House a simple, two-clause Bill that costs nothing and hurts no one, and which would scrap once and for all the ludicrous system of by-elections for hereditary Peers.

This is the fourth time in five years that I have introduced a Bill like this. It is barely believable to me still that we have a system in the 21st century whereby 90 places in our legislature are reserved for hereditary Peers—all men—who, when they die or retire, are replaced in a by-election system in which only hereditary Peers can stand and, for the most part, only hereditary Peers can vote.

My previous attempts to change the law were filibustered by a tiny minority of Peers, led by the noble Lord, Lord Trefgarne, and the noble Earl, Lord Caithness. But, despite the setbacks, I relish the opportunity to bring this Bill forward again, buoyed as I am by the overwhelming support I continue to receive from Members in all parts of the House, not least among many of the 90 hereditaries themselves. Inevitably, the day will come when the tiny minority opposing the Bill, who insist still on playing King Canute, will lose the fight. Let us hope, for the reputation of this House, that it is sooner rather than later.

As the House knows, the by-elections were introduced as a temporary measure in the House of Lords Act 1999—so we are 22 years on and counting. Colleagues who have been good enough to attend these Second Reading debates in the past could be forgiven for thinking that they know my speech pretty well by heart. But I have good news: for those of us with a taste for satire, the by-elections are a gift that keeps on giving.

I need to bring the House up to date. Just 10 days after we discussed this issue in March last year, I was both surprised and delighted when no less a person than the Leader of the House herself presented a Motion to suspend all by-elections for hereditary Peers. The Motion carried in minutes without debate. The suspension lasted for just over a year, until April 2021. In truth, the Leader had no option, because virtually all elections were suspended during the lockdown. When we were suspending council elections, it would have been rather odd if the only elections going on through the pandemic were by-elections for hereditary Peers. But, from the point of view of those of us who want the by-elections scrapped, a wonderful precedent has been set: a 12-month experiment with no by-elections. I am able to report to the House that no adverse effects were reported. The House continued to function. There was no sense of loss, no petition for their resumption. The nation remained calm.

The 12-month suspension of the by-elections inevitably resulted in a number of them building up, so in the summer and autumn of this year we have been treated to no fewer than seven of them—let us call it a "glut" of by-elections, or perhaps a better collective noun would be an "absurdity". They brought with them yet more rich material for those who want them scrapped. For example, the one on 16 June, following the retirement of the Countess of Mar, marked the departure of the last remaining woman hereditary Peer. When the system was established in 1999, there were five women among the 90. One by one they retired and were replaced in each case by a man. Need I say that in the by-election to replace Lady Mar, all 10 candidates were men? Steadily, over 22 years, this ridiculous system has not just remained ridiculous, it has actually become more ridiculous—and by the way, among the many hereditary Peers who supported my Bill was the Countess of Mar herself, and I was always grateful for her encouragement.

Then there was the splendid example on 1 June of the by-election for a new Labour Peer following the death of my noble friend Lord Rea. The electorate to replace him consisted of the three remaining Labour hereditary Peers. I will say that again. We had a by-election yesterday—but the one in June was a parliamentary by-election for a new Member of Parliament with an electorate of three. Needless to say, none of my three noble friends had any enthusiasm whatever for exercising this particular democratic right. But fate intervened and was kind to us. Of the 203 Peers on the register of hereditaries who had shown an interest in joining the Lords, only one came forward for the Labour vacancy: my new noble friend Lord Stansgate. So we were all spared the embarrassment of what would have been a truly farcical election.

Then, on 10 November, we had another by-election for a Labour vacancy. At this point, perhaps I should remind the House that this particular by-election, in which the whole House was the electorate, was one of 15 established under the 1999 Act to enable those hereditary Peers who were Deputy Speakers at the time to remain in the House. After 22 years, many of the original 15 are of course no longer Deputy Speakers and the person who wins the by-election is not expected to become a Deputy Speaker either. If noble Lords are still with me, let me summarise the position. In these

[Lord Grocott]
Deputy Speaker by-elections, the departing Member does not have to be a Deputy Speaker and the person replacing him does not have to be one either—you know it makes sense.

Turning back to the most recent by-election for a Labour vacancy, three candidates put themselves forward. One declared himself to be a Conservative and announced in his 14-word candidate statement:

"Always happy to serve if requested".

He said he had

"many happy memories of the House."

At least it was a Labour candidate who won.

The two by-elections in June and October remind us, among other things, of the political balance among the hereditaries. There are echoes of the period before 1999 when there was such a colossal Conservative majority. Here we are in 2021, with two Labour vacancies to fill, and of the 203 names on the register, only two Labour candidates were available. In contrast, for the Conservative vacancy in June, there were 21 candidates.

So far, since 1999, there have been 43 lucky by-election winners. As the House knows, when the Lords Appointments Commission makes its recommendations for life Peers, it takes account of factors that might make new Peers more representative of the country that they are appointed to serve. So what of the elected 43? I am very grateful to the House of Lords Library for providing me with some useful information.

The House may be interested to know, for example, that, among the cohort elected in the by-elections, when compared with the original 90 there are now more dukes and fewer barons—so at least the by-elections are delivering a better class of Peer. I have often reminded the House that there are no women and no ethnic minorities among the by-election victors.

What about some other characteristics of the lucky winners? If we look for example at the geographic distribution of the 43, while there are none at all from Wales, the West Midlands or the north-east, there are 19 from London and the south-east—

Noble Lords: One from Wales.

Lord Grocott (Lab): Sorry, there is one from Wales; I will correct that. There is one Peer from Wales, the West Midlands and the north-east combined and there are 19 from London and the south-east.

If we look at occupational backgrounds, we find just one who is an engineer and 27 from business, industry and finance. If we look at educational background, we find that 21 of those Peers, or 45%, went to Eton. I hear much approval for that from some sections of the other Benches. I would be very interested to hear from the Minister when he winds up how all these facts assist the Government with their levelling-up agenda.

The truth is that the few Members of this House who still support the by-elections are bereft of any credible case. The one argument they have kept repeating for 22 years is that a deal was done in 1999 which promised to keep the remaining hereditaries until such a time as there was a fully reformed House of Lords. I can see the noble Lord, Lord Trefgarne, in his place, and no doubt he is itching to make the same point in today's debate.

Well, I really am delighted to tell the House that that argument has been blown completely out of the water by no less a figure than the Marquess of Salisbury. I remind the House that he was the Leader of the Opposition in the run-up to 1999 and led the negotiations to protect the 90 hereditaries. I will quote from an interview he gave to the *Financial Times* on 11 November this year.

He told the *FT* he had warned Tony Blair—who was, let us not forget, a Prime Minister with a majority of over 150 in the Commons—that, unless some hereditaries were retained, there would be carnage in the Lords which would wreck the Labour Government's whole legislative programme. He said:

"My whole tactic was to make their flesh creep … I threatened them with the Somme and Passchendaele."

He offered to call off the threat, but only if some hereditaries were retained. How many? He demanded 100. He went on to say:

"I thought we might need some kind of rationale for this. So I said that 75 would be about 10 per cent of the existing hereditaries, then we'd need a few more—perhaps 15—with experience of running committees, that sort of thing, to help with the transition".

He concluded:

"It was frightful bullshit really."

That is the Marquess of Salisbury. I will be interested to hear from those Members who speak against my Bill later today how he got that wrong. So there we have from the horse's mouth the whole outrageous detail of what happened in 1999, from the Marquess of Salisbury, which some in this House have used for 22 years to defend the indefensible.

We can all understand those few hereditaries who want the by-elections to continue; they have a clear personal interest. I have to confess to the House that my own parliamentary life might have been a lot easier if there were 90 places reserved for the eldest sons of railwaymen. The idea is of course a joke, but the persistence of these by-elections is not. By continuing with them, we make ourselves not just indefensible but plain silly—the worst criticism in any argument that I can think of. It is silly. Scrapping them would, albeit in a small way, show everyone that we can make improvements and reform ourselves.

We have had seven of these wretched by-elections this year, which is more than in any previous year. So let us make our own little bit of history by putting this Bill on the statute book and making the by-election held last month the very last one of all. I commend the Bill to the House.

10.20 am

Earl Attlee (Con): My Lords, I have not chosen to speak on any of the previous occasions that the noble Lord, Lord Grocott, has sought, with his usual skill and humour, to tempt the House with one of his many Bills. It is an honour to follow him, and what really worries me is that I enjoy listening to him and he often talks a lot of sense but, unfortunately, I cannot support his Bill. He has made his "the nation remained calm" joke several times before—again, with his usual skill.

First, I make it clear that I am not particularly keen to die in the ditch over by-elections. I am exceptionally keen to preserve the system of appointments, not

elections, to a House whose role is to advise on legislation, be an additional check on the Executive and, perhaps most importantly in today's context, to be a source of expertise. I expect that the noble Lord, Lord Rennard, when he follows me, will have a slightly different view.

I fear that the Bill may be a catalyst for all sorts of undesirable and unpredictable outcomes. It is of course essential that the Government of the day can be defeated in Parliament, although, eventually, the elected House usually predominates. With the current leadership of this Government, I read my whip only out of curiosity. I can do that because, in respect of my position in this House, I owe nothing to anyone who is alive.

It seems to me that many want to consider the composition of this House without considering its role. If it is desired to dispense with an upper House with its existing role, it is essential to consider how the House of Commons could be rejigged to provide our current role within its system, but I do not think that is an easy challenge. We have only to look at the United States, where it appears that its abortion laws are determined in its Supreme Court and sensible gun control laws cannot get past that court.

I rather think that the noble Lord, Lord Grocott, in pursuing his Bill, is fiddling while Rome burns. Conservative Prime Ministers since 2010 have been stuffing this House so full of Peers that we are now being unhelpfully compared with the Chinese National Congress, and there is little that we can do about it. The current Prime Minister has made appointments against the advice of the Appointments Commission. Furthermore, the House is becoming hideously London-centric—although I take the point made by the noble Lord in respect of hereditary appointments and admit that I am slightly a part of the problem, because I live in southern Hampshire. Even if all the hereditary Peers left, without a statutory appointments commission, Prime Ministers would still soon fill up the available space. I accept that the noble Lord seeks to get rid of the by-elections, not necessarily to get rid of me—at least not now. We urgently need an appointments commission that has a duty to return to and maintain a House of a reasonable size and, most importantly—following his point—with regional and political balance.

I agree with the noble Lord that the issue of female hereditary Peers is clearly a problem. However, it is not insurmountable. We could legislate so that only peerages with letters patent that have been amended to allow equally for male or female succession were eligible in the by-election system. I think that would be a rather more profitable Bill.

I mentioned us as a source of expertise, and we have a wide range of expertise. About 18 months ago, the *Daily Star* claimed that no Member of this House had trade skills. This is obviously not correct, but nothing was done to correct it. There must be some noble Lords on the Benches opposite with trade skills. Speaking for myself, I have some engineering skills. I can operate a lathe and a milling machine; I can weld by several different processes; I can operate a heavy recovery vehicle and a tank transporter, and I am also a qualified HGV driving instructor. There is no one in either House who can match that experience. On Monday, my Motion on the HGV drivers' hours SI will be informed by my practical experience of road transport operations. Yet I was also capable of being a Minister in the Government Whips' Office for four years. This, of course, is a well-trodden path for hereditary Peers.

I think we should target our efforts against Prime Ministers who are ruining this House by appointing far too many Members.

10.25 am

Lord Rennard (LD): My Lords, in 1909, Lloyd George put forward the People's Budget, proposing measures such as the introduction of the first ever old-age pensions in this country. The then Liberal Government planned to finance them by increasing taxes, including the basic rate of income tax, which would rise from the equivalent of 5p in the pound to 6p in the pound, and a tax on the wealthiest landowners. Opposition from such landowners was so strong, however, that in November of that year, the Finance Bill was rejected by the House of Lords by 350 votes to 75.

The issue of constitutional reform and the role of the House of Lords was then centre stage in the January 1910 general election. Following it, there were then 70 days of debate and 554 Divisions on the Budget before the House of Lords was forced to accept it.

A second general election was required in the same year to give authority for a Parliament Bill to curb the powers of veto by the House of Lords. The Parliament Act 1911 did not attempt to change the composition of the House of Lords, but the preamble to the Act stated the intention

"to substitute for the House of Lords as it at present exists a Second Chamber constituted on a popular instead of hereditary basis,"

although it recognised that,

"such substitution cannot be immediately brought into operation."

We have been very patient in seeking to bring an end to the hereditary route to membership of this House over these 110 years. Perhaps only in this place could more than a century be considered too short a timescale in which to agree necessary changes. Yet it is clear from previous debates and votes that the overwhelming will of this House is to end the farcical process of holding by-elections to provide for more hereditary Peers.

On this issue, the great efforts of the noble Lord, Lord Grocott, follow those of my late and much respected noble friend Lord Avebury, who introduced a Private Member's Bill on the subject in 2006. Why have we not made more progress on an issue which had overwhelming support in this House and in the other place when it was last tested?

The first reason is simply that a small group, almost all of them hereditary Peers, whose own position is not threatened by this Bill, have nevertheless put forward completely bogus arguments and multiple irrelevant amendments and used anti-democratic filibuster techniques to block its progress. The second reason is, of course, that the Government are not really interested either in reducing the size of this House, or in ending in good time the principle of having hereditary membership within our Parliament. They should have

[Lord Rennard]
the honesty to say so but should also show the democratic commitment to allow time for both Houses to determine the issue.

It was the late Robin Cook who pointed out when he was working on a cross-party basis and championing Lords reform in 2005 that, as he put it:

"Only we and Lesotho reserve seats for hereditary chieftains".

We should support this Bill today so that this could no longer be said in future.

We have heard much in previous debates about "gentlemen's agreements" and "binding arrangements", but the overarching principle is that no Parliament can bind another; otherwise, what point would there be in holding general elections, if major issues have been permanently determined by previous Parliaments?

We should not, in these considerations, again allow the time of the House to be wasted with hundreds of irrelevant amendments. Some of the individual amendments were nine pages long, trying to amend a one-page, two-clause Bill. Many of these amendments were not moved and there never was any intention of moving them; they served only to filibuster the debate and prevent progress.

No existing Member of the House—and I accept that we have some very excellent hereditary Members—should feel threatened by this Bill. The 203 people on the waiting list for hereditary vacancies—all men, I believe—have other routes to membership, including through the independent House of Lords Appointments Commission and the patronage of the Prime Minister.

If we respect this House—and many of our debates have spoken about respect for the House—we should let the will of the House prevail on this issue. Let the Bill complete all its stages. We should let the House of Commons vote again on this issue. That would allow people to see who is defending the hereditary principle, but I suspect that the Government would not like this to be known.

10.31 am

Baroness Hayter of Kentish Town (Lab): My Lords, for a fourth time it is my pleasure to give a very warm welcome to my noble friend's attempt—successfully this time, I hope—to get this measure through Parliament.

The last time I spoke in your Lordships' House on an earlier version was in March last year. Before that, it was in March 2019 and on a Bill that had had its Second Reading 18 months earlier, in September 2017. As I said early last year, that was quite some foot-dragging, and still we make no progress while, as we have heard, the by-elections roll merrily along, bringing—this is the serious bit—this House and democracy into disrepute. This is all at a time when, rather than bringing in more white, male hereditary Peers, we need to reduce the size of the House and increase its diversity in terms of gender, ethnicity and background.

It is bad enough that we outnumber the democratically elected House next door, but to do so with 90 of our Members being here by virtue of their grandfathers, their great-grandfathers or, sometimes, their great-great-grandfathers is a source of shame to a 21st-century legislature. To those women who have approached some of us during our preparations for this debate and who, unbelievably, want to entrench inherited privilege further by adding an extra cohort of white hereditary people to this House—the daughters of hereditary Peers—I say this: that is no way to tackle gender inequality.

What they are asking is for a group of women who have not managed to be appointed here through their own skill, achievements or talents to become legislators in this great Parliament. They want women who have not managed to be appointed here on their own record to have the right to come here on the deeds not even of their grandmothers but of their grandfathers, great-grandfathers and great-great-grandfathers. It is hard to imagine what these people are thinking. This is not feminism, and it is nothing to do with equality. If those women object to male offspring being able to be catapulted into this House, surely they should join my noble friend Lord Grocott in his campaign to end the by-elections for male offspring. Of course I want to see more women in here, but on their own merit—that is, on where they have contributed to our society in public, political, artistic, medical, academic, charity or creative life. I want women here for what they have done, not for what their great-grandfathers did.

To those who support women inheriting seats here, I say this: if they have any interest in fairness, equality or democracy, how do they think this would look to ethnic-minority communities and others excluded from this VIP fast track? Indeed, I ask them, as I ask the men who support continuation: at a time when Black Lives Matter has made such a difference around the world to our thinking about representation in our communities, what does it look like that we continue with something that excludes a large part of society? Do they wonder what the press would make of some of their predecessors? In this period, when we look back at the creation of wealth in this country, we know that some of it was borne on practices that we would now, through today's lens, look at with abhorrence. Some of those people are exactly the ones who were, in their time, ennobled and brought to this House. Today, I think that the press will look very closely at anyone coming in like that and the original awards with some embarrassment.

It is always the same band playing. Have noble Lords noticed how many of us are here again? I see my noble friends Lord Snape and Lord Anderson, as well as other noble Lords who often speak on this issue. Indeed, the noble Lord, Lord True, is frequently, though not always, here. Back in 2017, he was honest enough to admit that some of the resistance to change had been to further the Conservative interest. The figures bear that out, with 10 times as many Conservative than Labour Peers embroiled in this insular scheme. To the noble Earl, Lord Attlee, whose grandfather is of course still held in great regard, particularly on this side of the House, I say this: I doubt that his grandfather, when he accepted the title, expected to see his grandson sit as a Tory Minister as a result of it.

Earl Attlee (Con): Perhaps Mr Tony Blair should have invited me when he was leader of the Opposition. He is so charming, he could have convinced me to join the noble Baroness's Benches. Who knows what the outcome would have been?

Lord Collins of Highbury (Lab): We will try again.

Baroness Hayter of Kentish Town (Lab): Just between us two, when they do not hear, the offer is still there.

The one advantage—the only one, I think—of the Government having a majority of 80 in the other place is that it now has the chance to grasp the nettle, safe in the knowledge that its working majority down there will not be threatened by any pesky Lords.

This modest measure would make change very gradually. We are not seeking to say farewell to any hereditary already here; indeed, we look forward to their contributions for many more years. However, the credibility of their work and of this House is undermined by how membership can still be achieved through by-elections, producing a self-perpetuating selection of new Members chosen by a tiny electorate. Let us get rid of this silly nonsense and waste no more time on it.

10.38 am

Lord Young of Cookham (Con): My Lords, I begin with a declaration of interest. In last month's by-election, referred to by the noble Lord, Lord Grocott, my cousin, Thoby Young, alias Lord Kennet, stood unsuccessfully for the Labour vacancy. He may well want to stand again in future by-elections, though for which party he will want for stand next time, I cannot say.

I believe that I am one of a small number of noble Lords, apart from the noble Lord, Lord Grocott, who have sat through every single minute of the previous discussions on his Bills over the past six years. This was not a wholly voluntary decision. I did so mainly in my capacity as government spokesman on the Bill—a job discharged today by my noble friend Lord True, clutching a folder that bears my fingerprints and may well contain a similar form of words. However, I am now free to express my own view, rather than the Government's —although, when I did express the Government's view, I confess to stretching to its limits the concept of ministerial responsibility by toning down some of the passages that were hostile to the Bill and eliminating others.

To those who criticise the Government for not being more supportive of the Bill, I refer, as I have done before, to *Hansard*. On 30 November 2007, the House was considering a Bill introduced by Lord Steel, which, among other measures, intended to abolish hereditary by-elections. The then Government set out their objections to that proposal and, referring to the pledge given by the noble and learned Lord, Lord Irvine, that the hereditary Peers should remain until the second stage of reform, the then Minister, the noble Lord, Lord Hunt of Kings Heath, said:

"I do not believe it can be argued that the Bill could be considered to meet the terms of that pledge."—[*Official Report*, 30/11/07; col. 1479.]

I support the Bill introduced by the noble Lord, Lord Grocott, but the decision is a more balanced one than he implied. Of course, Conservative Peers attach more weight to the pledge given by the noble and learned Lord, Lord Irvine, than do Labour Peers. It was a commitment sought by our former leader, Viscount Cranborne, and reluctantly conceded via the Weatherill amendment by the then Government. It means more to us than it does to other parties, and not just because we have more to lose.

By-elections in my party are unlike by-elections in the Labour Party or the Liberal Democrats' party, in that there are a wide range of prospective candidates, whereas there are sometimes only one or two from opposition parties. In my party's case, the by-elections are serious, with hustings and many strong candidates. Those who win tend to do more heavy lifting in your Lordships' House than the life Peers, and they hold more ministerial positions than their numbers would indicate. As with the original 92, these are noble Lords who want to be here to work and must convince an electorate that they will do so. Many of those appointed recently through the by-elections have shown more commitment to your Lordships' House than those who have arrived here by appointment.

However, on balance I find the arguments the other way more compelling. The Irvine pledge was meant to be a short-term fix before the second stage of Lords reform. When I was shadow leader in another place, I was told that the first round of elections for a reformed second Chamber would take place by 2001. What was meant to be a short-term fix has become a long-term anomaly. The position is clearly discriminatory against women, as we have just heard, and has no place in modern legislation.

What exposes the House to criticism is not just the by-elections themselves but the ingenious methods to obstruct the clear will of the majority of the House. Frankly, I was embarrassed when listening to some of the arguments adduced by my noble friends, and in fairness to them, I suspect that they were embarrassed as well. We should have no more delaying tactics. The Bill has been examined ad nauseam by your Lordships' House. It is an incremental reform, like other Private Members' Bills, which does not preclude other reforms, should the time come for them. I support the Bill, and we should get on with it.

10.43 am

Baroness D'Souza (CB): My Lords, this House, including many of our greatly valued hereditary Peers, has endorsed this Bill in its many incarnations. The House of Commons is in agreement and public opinion, whenever it is solicited, is also in favour of a change to the hereditary by-elections and the principles underlying them. It is mystifying that the Government are apparently implacably opposed. The main argument is that piecemeal reform is not to be contemplated but, as has been said too many times to be ignored, piecemeal—or, to give it a more dignified name, incremental—reform is how this House has developed over the last few centuries, and in the words of the noble lord, Lord Grocott, the nation has, on the whole, remained calm.

This is a simple Bill, entirely in step with current concerns about equality, and it could be slipped into the legislative programme without too much disquiet or disruption, barring vexatious lack of self-restraint in tabling amendments. If this fails, as I suspect it might, what are the options? I have been looking carefully at the definitions of self-regulation in this House. It is a much-treasured convention and extends to proceedings and the pre-eminence of Peers themselves in decision-making. The Standing Orders regulate these freedoms to some extent but do not preclude the Lords insisting on certain conventions and, importantly, procedures.

[Baroness D'Souza]

In recent weeks, the House has objected to the process of introducing electronic voting and is at present engaged in debating the role of the Lord Speaker. One wonders whether self -regulation could be extended to enable Peers to have a say on recruitment to this House by means of hereditary by-elections. For example, could noble Lords decide not to be involved in these by-elections but instead refer the candidates to the independent Appointments Commission? Could this House be sufficiently concerned about the continuation of an outdated practice to act together and impose its will? This would not necessarily mean abseiling from the public gallery, but rather a dignified and well thought-through petition to the usual channels for adequate time to complete this Bill.

These might be seen as radical options, but as the momentum builds, the Government may accept that a compromise solution would be preferable.

10.45 am

Lord Desai (Non-Afl): My Lords, we are prisoners not only of the past 110 years but of what reform was promised during proceedings on the 1999 House of Lords Bill. I have a little information which will add to the confusion about which path to select and be bound by. The original proposal was that there would be one by-election and the runner-up would then be chosen for the next vacancy, so you have one election and then rank the candidates. You do not have further by-elections but select from the rankings of the also-rans. That was rejected and the sequential by-election procedure was chosen. So, there is nothing for us to substitute for that procedure, saying that next time, we will have one by-election and everybody can compete, and the replacement will be chosen from the queue of also-rans.

I have nothing against hereditary peers, even those elected through a by-election. But the absurdity is the very small electorates for Peers of parties other than the Conservative Party who have to be replaced.

I agree with my friend, the noble Lord, Lord Grocott, a parliamentarian whom I respect very much, in his attempts to remove this obstacle in our constitution. We should do whatever we can to remove the by-elections of hereditary Peers. Whatever parliamentary trick we can invent to defeat the Government's reluctance to support this Bill should be welcomed. I wish the noble Lord, Lord Grocott, good luck on this occasion.

10.48 am

Lord Mancroft (Con): My Lords, the ostensible purpose of the Bill is to dispense with what are called the ridiculous and embarrassing by-elections of hereditary Peers. If they are ridiculous, which is a subjective and therefore obviously biased view, they are embarrassing only to those who introduced them. There can be no embarrassment to the rest of us for something that we did not initiate. Indeed, I have always had a sneaking suspicion that some of those who support the ending of by-elections do so because they are worried that any criticism that the by-elections attract impacts the reputation of the whole House, and thus risks their own rather comfortable seats in it. I hope that is just me being cynical and is not actually right.

The reality is that nobody is particularly interested in the composition of this House except us. Most people know or care little about how we get here, and probably no one would ever notice if the Electoral Reform Society—a sort of Lib Dem fan club, and therefore very small and inconsequential—had not managed to wind the *Sunday Times* around its little finger. To put that in proportion, I say that only about 1% of the British people read the *Sunday Times*. We are not, therefore, debating what could be called a very hot topic.

It is important to remember that what we are being asked to do today is clear up the mess of another failed Labour policy. We are all used to Labour Governments destroying the economy—it goes with the territory—but the House of Lords Act 1999 was an unbelievably badly botched constitutional reform. All Governments legislate incompetently because that is the nature of Governments but, sadly, Labour Governments also legislate vindictively, which means against groups they perceive have done them wrong. Revenge is a very unpleasant and destructive trait in a political party.

The debates over Lords reforms have, as we all know, run into the ground over the vexed question of whether to have an elected or appointed House. That question was unresolved when Labour introduced its Bill in 1999, but it argued that, once the hereditary Peers had been expelled, the question that came to be called stage 2 would be relatively simple to resolve. We now know that this argument was a deception. We were all deliberately misled. The noble and learned Lord, Lord Falconer, who is sadly not in his place, has confirmed that there was never going to be a stage 2. We must therefore assume that the sole purpose of the Bill was to extract revenge on the hereditary peerage by expelling it from Parliament. It is pathetic, really.

No thought was given to whether it would be a good or bad thing; it just had to be done to satiate Labour's class warriors. But the price they had to pay was to leave 100 hereditaries in place and the by-elections to replace those who die and now those who retire. Those 100 hereditaries act as an open sore in the side of old Labour, which is why we are here today. No one outside this House and the Westminster bubble is remotely interested. This Bill is not about improving the House of Lords; it is about clearing up Labour's mess. For the old Labour dinosaurs, it is about completing unfinished business—another battle in the class war that is Labour's obsession and is of no interest to anybody else in the country today. It is last-century stuff, and a poor reason to legislate.

It is important to focus on where we will be if this Bill passes. We will become a wholly appointed House by default, one of only 15 in the world—mostly small Caribbean islands and Canada, and most Canadians are not great fans of what they have. We will also become the only legislature in the world in which the leader of the party with the majority in the first Chamber has sole power of appointment to the second Chamber. That really would be ridiculous and very embarrassing for those who vote for it, particularly Liberal Democrats, who apparently favour an elected second Chamber—although, let us face it, they have always had rather flexible principles.

We will also become the only legislature in the world that is using its second Chamber as a retirement home for Members of its first Chamber. More than once the noble Lord, Lord Grocott, who is always the very model of courtesy, has made clear that we hereditaries should not take his Bill personally. I hear and understand that but, if it is not personal, I have to tell him that it sure as hell feels like it sometimes.

Similarly, I have many friends who are or have been MPs, for whom I have the greatest possible respect, so my concern about a preponderance of MPs in this House is not personal either. However, if the House ever becomes dominated by any one group, it will lose the diversity of views which is its strength, even more so if that group simply reflects the views of the current political establishment, which we saw during the Brexit debates.

The Bill is an indulgence. I imagine the House will give it a Second Reading, as is our habit, and after that, without government support, which it does not deserve and will not have, it will die and so it should. Your Lordships have better things to do than waste time on this nasty rubbish.

10.54 am

Lord Snape (Lab): My Lords, on my way to the House this morning, I thought I would try to avoid any class warfare as far as my noble friend's Bill is concerned. I know that it is customary in your Lordships' House to compliment the previous speaker but, having listened to the noble Lord, Lord Mancroft, I find some difficulty in doing so. If there is a class warrior to be commended for his contributions so far, it would be him. I will come back to him in a moment, but I just say to my noble friend that, whatever the weakness of the system of the Prime Minister making appointments to your Lordships' House, at least there are two sons of railwaymen on these Benches. I reflect on a recent *Sunday Times* article on hereditary Peers that pointed out that no fewer than 39 of their ranks went to the same school. I am not going to name the school, because we all know what it is. It certainly was not West Bromwich Grammar; I assure your Lordships of that.

I do not want to fight the class battle that the noble Lord, Lord Mancroft, just outlined, but we are not about to abolish him if my noble friend's Bill gets on the statute book. We are about to abolish only this nonsensical system of election. I say to the noble Lord, Lord Mancroft, in all friendship, that we are offering not his abolition but a chance to join the human race. He can join us and become like the rest of us. I cannot claim that your Lordships' Benches, even on this side, are a fair cross-section of society—

Lord Mancroft (Con): My Lords—

Lord Snape (Lab): No. The noble Lord intervened on my last speech on this business, took a chunk of my time, then pointed to the clock when I tried to respond, so he is not getting away with it twice. I want to bring him into the fold to be the same as the rest of us, which is the key to his opposition. He does not want to be the same as the rest of us; the hereditary Peers like the elitism of hereditary peerages and do not want to be made "mere" life Peers. We would not lose the noble Lord, Lord Mancroft, if we went ahead and abolished hereditary Peers, any more than we would lose the wit and oratory of the noble Lord, Lord Trefgarne, who has kept us entertained over half a dozen attempts to abolish the system of hereditary Peers.

We are offering the hand of friendship. We want hereditary Peers to join us and be like the rest of us. Looking back at the education of the noble Lord, Lord Mancroft, I think that he ought to be embraced by the rest of us because of what he had to go through. I read the *Sunday Times* article to which I referred and looked at what happened at Eton. Imagine being plucked from the bosom of the family at an early age and being sent to that school. You get up at the crack of dawn, are given a 12-bore and go out and shoot your own breakfast before starting. You have to put up with beatings—and worse, according to the tabloids—of sadistic teachers. When you get to maturity, you dress up in a quasi-military uniform and are photographed for posterity, earning your honours battling your way through the wine lists of expensive restaurants, sorting out a few waiters while you are doing it. When you leave, at the end of this long, expensive and painful schooling, you end up in a dead-end job—a stockbroker, banker or hedge-fund operative, whatever that may be. There are no long-term prospects in jobs like that.

Indeed, the noble Lord, Lord Mancroft—who after a previous debate assured me of his own grandfather the first Lord Mancroft's humble background—ended up a master of fox-hounds. Again, there is no future in a job like that. It is one of the reasons why I want him and his colleagues who went to this particular school, all 39 of them, to join the rest of us. When he does, he can reflect on those of us who were elected into the other place. Last time we debated my noble friend's Bill, he had a few harsh words about former MPs dominating, as he put it, your Lordships' House. He said that they come up the corridor, make speeches and want to do things—how dare they? At least, if he becomes one of us, he can convince us that perhaps the way forward is not to do things and not to make speeches in your Lordships' House. We can mix together and become equals. That way, perhaps we can learn from him how better to conduct ourselves while we are in this House.

There are no advantages in the present system. It brings your Lordships' House into disrepute. I do not know whether my noble friend's Bill will reach the statute book on this occasion; I strongly suspect it will not, because of a lack of time. I hope he will persist and stop the nonsense of hereditary Peers being elected. He has amply outlined the paucity of the electorate for the future. No noble Lord who wants a proper future for this House, however it is organised or reorganised, would pretend that the present system is ideal, but all the alternatives present various difficulties. I do not envy any future Prime Minister who decides to embark on a wholescale reorganisation, but at least we can move forward in a small way if we accept my noble friend's sensible proposals today. I give them my wholehearted support.

11 am

Viscount Trenchard (Con): My Lords, the last time we debated a similar Bill introduced by the noble Lord, Lord Grocott, was on 13 March 2020, immediately before we entered the first lockdown. It seems that, notwithstanding the mutations of Covid during the intervening period, the noble Lord's persistence with his obsession to break the terms of the 1999 agreement has not mutated at all. He is to be congratulated on his dogged perseverance, but I continue to believe that what he wants to do represents a serious breach of the basis on which your Lordships' House passed the House of Lords Act 1999.

The Weatherill amendment, which was the basis on which your Lordships' House gave its assent to that Act, in the words of the noble and learned Lord, Lord Irvine of Lairg, reflected

"a compromise negotiated between Privy Councillors on Privy Council terms and binding in honour on all those who have come to give it their assent."—[*Official Report*, 30/3/1999; col. 207.]

The continued presence of 92 hereditary Peers in your Lordships' House must therefore continue until stage 2 of reform is completed. Stage 2 means the introduction of at least a significant proportion of Peers elected by popular franchise. I see no evidence that another place is pressing hard for that outcome. Therefore, I believe it might take some time before stage 2 is eventually implemented.

With respect to the noble Lord, Lord Grocott, with many of whose opinions on other important policies I entirely agree, if he really thinks that the reputation of this House would be improved if it were comprised entirely of appointed Peers, I believe he is plain wrong. The removal, albeit a lingering death, of the hereditary element in your Lordships' House would not, as he appears to believe, render the House more acceptable in the eyes and mind of the public. In a modern democracy, political legitimacy derives largely from the ballot box. Obviously, your Lordships' House possesses no democratic legitimacy. What legitimacy this House does possess derives to a considerable extent from history—that the House has existed and made our laws for nearly 800 years, since Edward III established the House of Commons as a separate legislating body.

The exercise of patronage, under which most life Peers are appointed today, generates in many cases much more public disapprobation than the holding of hereditary by-elections, which are, in most cases, very competitive. I acknowledge that most hereditary creations too were a result of the exercise of royal or prime ministerial patronage, but, strange as it may seem to many of your Lordships, it is perhaps less offensive to many or even most people the further removed in time from the original act of patronage we are. So I do not think the public would be more supportive of your Lordships' House shorn of its hereditary element; I actually believe the reverse.

It is also true that the continued presence of hereditary Peers contributes to a slightly more diverse geographical spread in what is an overwhelmingly metropolitan House. The noble Lord, Lord Grocott, forgot that my noble friend Lord Harlech comes from Wales and that my noble friend Lord Ridley hails from the north-east.

Noble Lords who argue that implementation of the Burns report is hampered by the hereditary by-elections are also misguided. I have the highest regard for the noble Lord, Lord Burns, and was privileged to sit on the Financial Services and Markets Committee in 1999, which paved the way for our modern system of financial regulation. However, many noble Lords accept without question the Burns committee's recommendation that the number of Members of your Lordships' House should be less than the number of Members of the elected House. Why? Although attitudes towards MPs having second jobs have clearly changed over the years, I have not heard many voices arguing that noble Lords should be full-time. We are still largely a part-time House. That enables us to bring to this place the current experience and knowledge that we have gained and continue to gain in our other activities. Besides, there are many logical ways in which numbers could be restricted to reflect the proportion of votes cast and seats won in one or more general elections preceding a Parliament, so I do not think that the hereditary by-elections are incompatible even with the numbers reduction proposed by the noble Lord, Lord Burns.

I believe, as I have argued before, that there is no logical reason why life Peers should be allowed to vote only in whole-House by-elections. Standing Orders should be changed to permit all Peers to vote in their respective party by-elections, which would, at a stroke, remove the point of criticism that the tiny Labour and Liberal Democrat electorates for their party by-elections are open to ridicule, which the noble Lord, Lord Grocott, correctly pointed out.

When a sensible proposal for substantive stage 2 reform of the House that is supported in another place is eventually introduced, I shall gladly support it. Until that time, I shall oppose any attempt at piecemeal reform such as the divisive and damaging measure before the House today, which I trust will never reach the statute book.

11.06 am

Baroness Meacher (CB): My Lords, I rise to express my strong support for the Bill from the noble Lord, Lord Grocott. In doing so, I emphasise that this is in no sense a comment on the abilities or contribution of individual hereditary Peers. I know as well as we all do that we have some excellent hereditary Peers. The noble Lord, Lord Mancroft, who I know extremely well, has been a very great support over the years and I greatly value his contribution to the House. This is not a personal statement; it is about principle, the reputation of the House and our ability to contribute effectively to the parliamentary process.

First, the principle of the continued membership of this House of 92 Members based on a set of rules developed in the Middle Ages is simply not tenable in the 21st century. As the noble Lord, Lord Grocott, has said over the years, the hereditary principle ensures that every hereditary Peer, apart from the Countess of Mar while she was here, is male. We currently have the Black Lives Matter campaign beginning to change recruitment in industry, sport and all corners of the country. This House and the Government cannot justify turning their backs on it. I ask the Minister to take this point back to his colleagues.

Secondly, we cannot do our jobs effectively unless Ministers and the public take the House seriously. The cold reality is that they do not. The Government should regard the proposal from the noble Lord, Lord Grocott, as a top priority if they really want to be taken seriously on their levelling-up agenda. They cannot have these two situations continuing alongside each other.

If Ministers do not want to find time to deal with this issue on a permanent basis, then I ask the authorities of this House to grasp the nettle so we can do something about it ourselves. As others have said, we managed to suspend these elections during the pandemic. I do not believe that it is beyond the wit of man, or beyond our authorities, to find a way to suspend these elections on a permanent basis until the Government can find time for Parliament to deal with this matter formally. It is very important that the suspension should be permanent so that we can make clear to the public that this House wants reform and to see these elections ended, so that, over time, this House will be much more representative of the population. Of course, the ending of elections for hereditary Peers is an incredibly mild reform, but at least it would establish a 21st-century principle that every Member of this House, at least in principle, is selected for membership on the basis of merit. We know that this does not always happen, but at least this would be a start.

At the same time—I am sure this is much more controversial—this House also has to grasp the nettle of wearing robes, which were introduced surely in the Middle Ages. We have to make the point to the public that if the Government do not want to reform this House, we—this House—want to reform ourselves and bring ourselves into the 21st century. I do not think we can continue in a situation where most of the public frankly regard us with a degree of ridicule. The recent comment by Matthew Parris, which I shall not even repeat as it was so rude, says it all. He regards us as ludicrous and crazy; the sort of place that should be got rid of. We have to do something. The Government are not going to do something. Therefore, if we could get the Bill proposed by the noble Lord, Lord Grocott, through, it would be wonderful. I do not think any of us are very optimistic about that, so I ask for the basic point of the Bill to be put into effect in the way that I have suggested. I implore the Government, and if not the Government our House authorities, to act and to do so without any further delay.

11.11 am

Lord Lilley (Con): My Lords, I congratulate the noble Lord, Lord Grocott, on putting forward this Bill; if anyone could by his wit, eloquence and the respect in which I hold him convince me of its necessity, it would be him.

I want to make a few brief points. I shall comment on the point made by the noble Baroness, Lady Meacher, that we should widen the debate to the question of robes. I remember that, when I first wore my robes here on my introduction, I was told the story of Lord Hailsham who, having worn them at the Queen's Speech, went out and saw the then Neil Kinnock on the other side of Central Lobby, which was filled with Japanese tourists. He shouted "Neil!", at which point all the Japanese tourists fell to their knees—so there are clearly risks involved in the wearing of robes.

To get back to the more serious issue of today, first, the by-elections were part of an agreement. I remember that because, at the time, I was deputy leader of the Conservative Party and the then William Hague phoned me up to say that Lord Cranborne, who was a member of the shadow Cabinet, had, behind his back, negotiated with Tony Blair an agreement on the reform of the upper House, and to ask what we should do about it. I agreed with him that we had to sack Lord Cranborne, and we marched to this place and confronted the Association of Conservative Peers, who, to a man and woman—or to a noble Lord and noble Baroness—supported Lord Cranborne in what he was doing. It was not a welcome agreement, but it was an agreement that was subsequently enshrined in law in this place.

I have listened time and again in recent months to lectures from noble Lords, some of whom have spoken today, on the importance of keeping agreements once you have signed them in the context of the Northern Ireland protocol. You may not like the agreement and you may not agree with the people who negotiated the agreement, but you are bound by the agreement. It may, in the words of the noble Lord, Lord Grocott, be described by one of the negotiators as "bullshit", or the threats he used may be "bullshit". We know now that Monsieur Barnier's position was based on pretence and he subsequently turned out to be sovereignist in French terms—although that did not do him much good. Whatever it is, we are either bound by agreements or we are not. We are able to repudiate agreements only if the other side is not implementing them in good faith or there is a substantial and significant change of circumstances.

Baroness Watkins of Tavistock (CB): My Lords, I want to raise the issue of the agreement because I am one of the few people who have been appointed by the independent Appointments Commission. Since 1999, the numbers have radically reduced, and part of the agreement was that there would be regular independent appointments, yet by-elections for hereditary Peers have continued as part of what I believe is the same agreement. I wonder whether the noble Lord would like to comment on that.

Lord Lilley (Con): The noble Baroness makes a point which I had not previously considered. If the agreement is being breached in that respect, it is an important matter and I would agree with her that it should be properly adhered to. I am glad to have her support on the importance of adhering to agreements, which should apply also to hereditary by-elections.

My second point is this. What approach should we adopt to constitutional reform? There are broadly two approaches: one, which normally prevails particularly on those Benches but among some on this side of the House, is what Hayek calls the constructivist approach—the belief that any measure should be evaluated against some abstract principle, such as democracy, equality or diversity, and that if it does not conform to them, it should be radically changed until it does. If we apply that to this place, the only way to achieve representative diversity would be the jury principle, and all of us would have to go unless our number happened to be picked in a random choice of people to replace us.

[Lord Lilley]

Certainly, if democracy is to prevail, we would have to move to an elected House—something which I think would be foolish and of which the lower House would not approve. The alternative approach is the pragmatic approach that tends to prevail on these Benches. Does it work in practice? I submit that this House does work in practice. It works in practice for the contribution from the hereditaries—that does not prevent it working in practice. If things work in practice, we should not try to mend that which is not broken. The view of the constructivists, of course, is that it may work in practice but it does not work in principle—a foolish attitude if ever there was one, and one which I would not advocate.

Finally, does the House of Lords as it is composed and with a hereditary component work in practice? When I was Secretary of State, I would always have a Minister in my team in the Lords. The Whips would present me with various names and I would look through their qualifications, experience and so on and choose one. As it happened, most times I chose a hereditary. I did not know whether they were hereditaries or life Peers—I am afraid I was not acquainted with many Members of this House at that stage. I chose them on the basis of their experience and what I knew of their abilities, and there was a disproportionate number of them among the hereditaries Peers, who, for one reason or another—perhaps because they had known from birth that they would one day, if their father died before they did and their elder brothers predeceased them and so on, come to this place—had prepared for this by taking an interest in public affairs, but not driven purely by the sort of ambition that drove me and others who have come through the more disreputable process of going through the lower House.

We should recognise that hereditary by-elections are a valuable source of experienced, committed, prepared men and women—it would be nice if there were more women, and that is one of the more powerful arguments that the noble Lord, Lord Grocott, has used.

I remind the House that we made an agreement, and we should abide by that agreement. If we do not abide by that agreement, we are opening up to not abiding by other agreements, and I shall remember that when debates take place on the Northern Ireland protocol. We can either say that abstract principles apply, in which case this whole place has to be radically transformed, or we can say that we will go with what works and stick with what works, and not waste our time and unnecessarily change it.

Lord Rennard (LD): If the noble Lord is so convinced by the principle that agreements, once made, are binding and can never be changed, should he not then accept that the European Communities Act 1972 was a binding agreement in which we joined the European Union which could therefore never be changed by a future Parliament?

Lord Lilley: With respect, that is a silly point because we left under the treaty of whatever it is, which had Article 50 which allowed members states to leave.

11.19 am

Lord Hannan of Kingsclere (Con): My Lords, this is very exciting for me. Some of your Lordships have sat through these Grocott Bills many times, but this is my first one. I feel as if your first House of Lords (Hereditary Peers) (Abolition of By-Elections) Bill is a milestone, like getting your first pay cheque or having your first kiss—or maybe I should say, in deference to my right honourable friend the Secretary of State for Health, your first safety-conscious and careful snog.

I have to thank the noble Lord, Lord Grocott. He put forward the argument in a very light-touch, witty and courteous way. Of course, it is difficult to disagree with the central thrust of what he is saying. It is ludicrous and absurd that you should be a legislator on the basis of being descended from one of Charles II's mistresses or whatever it is.

On one hand, what counts is what works. All sorts of things are irrational; we would not invent them today, but we keep them. I was struck that many of the arguments that the noble Baroness, Lady Hayter of Kentish Town, made against the hereditary principle would work equally well against the monarchy, yet as far as I can see there is broad support in the country for keeping a system that works.

More pertinently, if we are being consistent in our application of these rational principles, then, as my noble friend Lord Lilley just said, the whole composition of this Chamber is indefensible, ludicrous, absurd and all the epithets just applied by the noble Lord, Lord Grocott. After all, what is the function of Parliament? What are we here for, in an elemental sense? It is not to debate in this Chamber, sit on committees or go on parliamentary delegations. The fundamental purpose of the legislature is to hold the Executive to account, and it must be debilitated in that role if one of the two legislative Houses is appointed by that Executive.

It seems to me that this fundamental indefensibility is why we are debating this at all. The existence of the 92 hereditary Peers and the by-election process was precisely intended to be the pebble in the shoe—the thing that drew our attention to the indefensibility of concentrating these powers in the hands of one person and thereby ensured that we moved to a completion of stage 2 reform.

By the way, on the idea we have heard in this debate that the real problem is size and that if only we could trim the numbers, that would make a difference—getting rid of the by-elections would be one way of doing this—it is intrinsic in having an upper House appointed by the Prime Minister that it will keep growing. That is the reality. If a new Prime Minister comes in, he or she will want a majority and will therefore make use of the extraordinary patronage powers that he or she has under the existing dispensation.

In fact, I sometimes wonder whether the whole country is not going to end up here sooner or later. People in this Chamber often quote the Gilbert and Sullivan line about the House of Peers doing "nothing in particular" and doing it "very well", but I wonder whether an apter song might be the one from "The Gondoliers" about everyone becoming a Peer and Dukes

being "three a penny". Perhaps the long-term plan is to put almost the entire country here and then concentrate real oligarchic power in the hands of the last few hundred people who still retain the right to vote for another place.

I do not see how we can get out of that constant growth unless we tackle reform properly. My noble friend Lord Lilley recalled the sequence of events that led to the deal. I was not around, but some of your Lordships were; I think the noble Lord, Lord Grocott, was involved. When Tony Blair came in, this was still a largely hereditary and overwhelmingly Conservative Chamber. He had a perfectly good and justifiable case for wanting change. As I recall, William Hague—my noble friend Lord Hague—was not a big fan of the hereditary principle. He said, "I don't mind change, but it has to be to something better. We can't end up in a situation where you, the Prime Minister, can appoint whomever you like." Blair said, "Well, no, we'll do stage 1 first, and then we'll get around to that." Hague said, "I don't really trust you"—correctly, as it turned out, because here we still are.

If we want to change the indefensible element of the by-elections, we have to be consistent and change the indefensible element of having a House appointed by the Head of Government of the time. I am very open-minded about how we do it. I would settle for a lengthy non-renewable term, a partly elected element or the selection by lot that my noble friend just proposed. Almost any system is surely better than this huge quango state we already have in which the Head of Government can appoint whom he likes.

The idea that it is delayed and that the deal is therefore defunct is not how contracts work. This contract was deliberately designed to have in it this correction mechanism that would hasten the end. We can often wait for a long time. What was it that our Lord said about his second coming in Mark, chapter 13, verse 30? It was:

"Verily I say unto you, that this generation shall not pass, till all these things be done."

We are still waiting for these things to come about after two millennia. There can often be a delay, but if we are serious about making this change it must be to something appreciably and demonstrably better.

This always goes down badly on all sides, but I personally favour an elected Chamber—but I am open to almost anything that would be a permanent settlement. I am not open to going back on the deal in order to try to preserve a fundamentally indefensible status quo. Either we believe in keeping our word or we do not. Pacta sunt servanda.

11.25 am

Lord Anderson of Swansea (Lab): My Lords, another fundamental principle is that no Government can bind their successor, or a successor after that. As a wag may say, this is déjà vu yet again. Here we are after so many debates. Much remains the same since the last debate, the debate before and the debate before that. We have the same arguments and the same speakers—save the noble Lord, Lord Hannan—and much remains the same.

The noble Earl, Lord Howe, said in reply to the last debate that the proposals represented significant reform for which there was no universal support. It was hardly significant reform—merely a modest, incremental step—and if one says there has to be universal support, that reminds me of the Polish constitution of 1793, under which every member had a veto and which led to total immobilism. That is hardly something that any democratic assembly would want.

No doubt the same flimsy arguments as before have been deployed. Even with the additions following the latest by-elections, the 90 plus two are all men and come from the same rather elitist background. The only parallel I know is the Guurti in Somaliland, the hereditary chieftains who form the legislative body. I went there on two occasions to lecture them on democracy, and heard an enormous murmur of approval when I said that our two countries stood alone in the world on this issue.

The only major change since the last debate is that the Prime Minister, by his appointments, has brought your Lordships' House into disrepute and increased demand for more fundamental reform. A few weeks ago, I was at a reunion lunch with a number of colleagues who joined the same organisation as I did in 1960. I was asked—I believe in a spirit of genuine curiosity—how one gets into the House of Lords. Perhaps they were as surprised as I was to find that I was in this place. I could only reply: "Have you got a spare £3 million?". The Prime Minister's actions make Maundy Gregory a mere amateur. It must surely be an embarrassment to Members opposite. It may be that he values the additional Conservative support from the hereditaries, of whom there are 42 Conservatives, two Labour and three Liberals. The numbers have already increased immeasurably.

Your Lordships must surely remember that at some time there will be a non-Conservative Government, and the disproportion in Members of this House will have increased even further, if only because of the passage of time and the age differential between the two parties. There will then be an enormous temptation on the part of the incoming Government to redress the balance in their favour. The numbers will become even higher and your Lordships' House will be even more absurd. Of course, we accept that the current hereditary elements play a disproportionate role in the House, but it is surely a lottery to imagine that their sons—I emphasise sons, and not daughters—will fall into the same category and do the same.

I conclude by saying a sincere thank you to my noble friend Lord Grocott, who has shown that ridicule is perhaps the best argument to use against the current status quo on hereditaries. He keeps on knocking at the door currently barred by the filibuster of a small group and the inaction of government; but one day that door will open. Future generations will then surely marvel that we allowed this absurdity to last for so long in our democracy; that a small minority of bitter-enders seemed determined to block any reform—even small, modest, incremental reform—until it became a tradition: the hallmark of the ultimate Conservative diehard.

11.30 am

Lord Cormack (Con): My Lords, the noble Lord, Lord Anderson, began in a rather understated way, by making a very important point that my noble friend Lord Lilley completely missed, as indeed did my noble friend Lord Hannan: no Parliament can bind its successors. My noble friend Lord Lilley, for whom I have great affection and regard, did a wonderful somersault when he suggested in introducing his argument on the Northern Ireland protocol that a Parliament cannot bind itself. That is an argument that we will doubtless come to yet again, but the fact is that no Parliament can bind its successor.

We are dealing with several Parliaments past. The noble Lord, Lord Grocott, is to be thanked for his courageous persistence, and he certainly has my support. As well as thanking him, however, I slightly rebuke him today. I thank him most warmly for accepting the argument of the continuity of the two, the Earl Marshal and the Lord Great Chamberlain, who do not form part of this Bill, although they did form part of an earlier Bill that my friend the noble Lord introduced. However, I have to rebuke him on behalf of poor old King Canute, who went to show that he could not turn back the tide, not that he could. The misreading of history by such a wonderful historian as the noble Lord, Lord Grocott, must be of profound regret to us all. I hope that he will do due obeisance to King Canute—the most realistic of our early monarchs—at an appropriate moment.

We are, as we say, here again. Much as I have a high regard for many of our hereditary Peers—the noble Baroness, Lady Meacher, made this point and I think we would all make it—the fact is that none of them is in danger. This is not a Bill to exclude hereditary Peers, nor one that prevents life Peerages being conferred upon hereditary Peers. All it is saying is that the by-election system has become an absurdity. How anyone with a grasp of logic and the forensic skills of a Lord Hannan cannot accept either that a Parliament cannot bind its successors or the absurdity of this system, I find, frankly, incredible. He is going to intervene —of course he is.

Lord Hannan of Kingsclere (Con): My Lords, the point is that we can pass primary legislation. The deal was enshrined in parliamentary legislation and, if that happens, we can, of course, move to stage two reform but, in the meantime, we should not be nibbling at the edges.

Lord Cormack (Con): What an extraordinary point to make in this week of all weeks—which began with the Bill that repeals the Fixed-term Parliaments Act. You cannot have it both ways. He will try very hard of course, as will my dear and noble friend Lord Mancroft, but the plain, blunt fact of the matter is that when an election, as we had a couple of years ago for the replacement of a hereditary Liberal Democrat, has more candidates than electors, it is made a tad odd, we might say. What we can and should do is respect the will of the majority. It has been quite plain and manifest when we have had votes on some of the ridiculous, convoluted amendments produced to this Bill—it has demonstrated beyond any peradventure that the vast majority in your Lordships' House are embarrassed by this system.

If those who have put up a superficially clever defence this morning could only reflect on the logic of their own basic arguments, they must surely see that if the majority of your Lordships' House—Conservative, Labour, Liberal, Cross-Bench, an overwhelming majority —feel that we ought to get rid of this embarrassing absurdity then we should do so. If your Lordships' House is to show a real respect for democracy, then this Bill should go through its remaining stages quickly and go to the other House.

I believe very strongly in what my noble friend Lord Attlee said about an appointed House; I have always defended an appointed House. We are too large; let us do something about that. We should, for instance, prevent those who attend less than 20% of the time from coming. Those who take leave of absence in consecutive years, unless it is for reasons of illness, should forfeit their membership. We can do all sorts of things to bring down the size. We can and should accept the arguments of the committee of the noble Lord, Lord Burns. The Prime Minister's profligacy in the distribution of peerages, unlike his predecessor, Theresa May, has done no service at all to parliamentary democracy or our constitution. I hope that he can be persuaded to be a little more circumspect—

A noble Lord: Much more.

Lord Cormack (Con): Indeed, as my noble friend intervenes to say, much more circumspect in the future and more careful about his appointments.

Once again, we have an opportunity to get this Bill through our House, to send it to another place. I would implore colleagues—particularly those hereditary Peers whom personally I admire and whose contributions I respect—to accept the overwhelming view of their own House and hasten the passage of this Bill. I urge everyone to do that.

11.37 am

Viscount Waverley (CB): My Lords, apropos of nothing to do with this Second Reading, I would not wish the noble Lord, Lord Grocott, to be of the view that, just because one had the questionable privilege of a private education, one does not have aspirations for an all-encompassing levelling-up programme, including in respect of gender sensitivities among many others. He may, on the other hand, have a point about Eton.

I suspect that there is trouble ahead for me today, having drawn the short straw of being placed to speak long before the noble Lord, Lord Trefgarne. Journeying down memory lane I will say that, when I first entered your Lordships' House, I decided early on either to become fully involved and, at the very least, be considered moderately sensible and respectful to all, or have nothing whatever to do with the place. I have hitherto tended to stay away from the multiple attempts by the noble Lord, Lord Grocott, on this by-election issue, remembering, honour-bound, that it was my hereditary colleagues who supported my privilege to remain. It is a responsibility that I have taken seriously; I have attempted to contribute as an independent Member who upholds the importance and relevance of the scrutiny functions as fulfilled by your Lordships' House.

I am of the belief that the hereditaries who remain should stand up and be counted and become fully involved with this question. I have attempted in the past to encourage a gathering of us to consider how to make an essential contribution to the modernising of our constitution in as much as it impacts the House of Lords. Regrettably, this has come to naught. Maybe the time is approaching when this might be reconsidered. It would at the very least return us to the principle of the Weatherill amendment.

Generally in life I prefer to opt for the big bang approach, not creeping instalments—not so in this instance, though, given the three immediate challenges: first, our numbers; secondly, the appointments process; and, thirdly, the matter before us today, the hereditary by-election process. Given the practicalities, the big bang approach is seemingly not going to happen, so in order to ensure a modicum of reputation-saving we should be striving for all three to be changed via democratic changes from within rather than imposed. In my view, for example, it is gut-wrenching that the Prime Minister of the day can appoint, for pure political expediency of one kind or another, Members who then play no role whatever in the activities of your Lordships' House. That should end forthwith.

In my humble opinion, an endgame that would best serve the interests of the four component parts of the union, serving the respective regional interests for differing reasons, would be a federal system comprising those four elements and sweeping away all current Members with an elected process representative of the four regions. Our current arrangements are manifestly not suitable, and we have a golden opportunity to modernise our state that would equally address the aftermath and vagaries of Brexit.

I have often asked why we as a country advocate for penalising those with autocratic tendencies when it could be suggested that our democracy falls short of the mark. The situation is clear: the will of the House is being blocked. That must end. I have just now consulted the Clerk of the Parliaments to see whether there is any mechanism to leapfrog the Committee stage and move on, recognising that, frankly, there is really nothing to amend. He has informed me that that is not possible, and I fully understand that procedurally, but if anyone in the House comes up with a different approach then I ask them to stand up and be counted.

For the reasons I have stated, I support this Private Member's Bill by the noble Lord, Lord Grocott, and offer it a fair wind.

11.42 am

Lord Trefgarne (Con): My Lords, as many noble Lords may understand, I am not in favour of the Bill of the noble Lord, Lord Grocott. I suggest that that is no surprise, as the noble Viscount, Lord Waverley, pointed out a few moments ago.

The present arrangements, as several noble Lords have said, were agreed in 1999, to last not indefinitely but only until House of Lords reform was complete. I accept that the present size of your Lordships' House is excessive but the problem is too many life Peers, not too many hereditary Peers. Back in 1999, 600 hereditary Peers left on a single day, and their numbers have remained firmly at 92 since then.

I suggest that the responsibility for the appointment of life Peers should be taken from the Prime Minister and vested in a new independent statutory body whose decisions would be binding. A small number of categories, such as religious leaders, could perhaps be included. Such a system would mark the completion of House of Lords reform and thus, of course, the end of hereditary Peer by-elections. That new appointments body could be given numerical responsibility—for example, by the method of two out, one in—to create a House of a more manageable size.

In 1215 His late Majesty King John put his signature to Magna Carta at Runnymede, thus creating democracy. Who was it who so persuaded him? They were described as the nobles, the barons and the bishops. Today we call them the House of Lords. I hope the noble Lord, Lord Grocott, will not press his Bill.

11.44 am

Lord Brown of Eaton-under-Heywood (CB): My Lords, I start by saying, as I have said in past such debates and others have said today, that I am one of those who greatly admire our existing hereditaries. Man for man—that is the comparison today, now that the Countess of Mar has left us—they bear ample comparison. They contribute at least as much as appointees such as myself. Indeed, understandably, a higher proportion of them than of the appointees contribute more extensively. After all, they have sought to come here for that specific purpose and already have their titles, whereas, by contrast, some appointees—and this should be corrected in other proceedings—are appointed in order simply to honour them, and thereafter some of them contribute, alas, very little.

With all that said, I strongly support the Bill. As has been pointed out, our excellent hereditaries are not threatened by it. The practice of continuing to replace hereditaries through these by-elections is surely fundamentally objectionable. To provide hereditaries alone with what in the past I have called—and I think someone else did before me—an assisted places scheme is simply wrong and absurd. Why should hereditary Peers as a class be favoured candidates for these occasional vacancies? If there are to be elections, then why not innumerable others who are equally able to provide good candidates? We could have engineers, economists or, indeed, as the noble Lord, Lord Grocott, suggests, the eldest sons of railwayman. Much the best of all, the general public could provide the pool of prospective best candidates if there were to be any elections to this House. Often the existing position is criticised on the basis that it is manifestly racist or indeed sexist. Indeed it is, but surely in relative terms these are lesser criticisms; they are subsumed in the wider objection that it is not just women and minority communities who are excluded from the chance of filling these vacancies but literally everyone except the hereditaries.

The only suggested rationale that I have ever heard or understood for keeping this system, and I rather think it was given something of an airing today by the noble Lord, Lord Mancroft, the noble Viscount, Lord Trenchard, and perhaps the noble Lord, Lord Trefgarne—certainly by him on an earlier occasion—is that it ensures that we are not a wholly elected House, a House ultimately in the control of the

[Lord Brown of Eaton-under-Heywood]
Prime Minister, and that the result of this existing hereditary election scheme is that we have some democratic legitimacy and, indeed, some independence from the Prime Minister. I say to that, with the best will in the world: tell it to the birds. Those who want an elected House are hardly going to be satisfied when it is pointed out to them that we are not a wholly appointed House because we have 90 elected hereditaries. They are not going to say, "Well, now you've reminded us of that, obviously it's an entirely sound and sensible system."

I suggest that the Bill once again provides us with the real chance of attempting self-reform in order to improve our image and reputation in the wider world. Of course, not everyone outside this House is totally obsessed with its constitution but an awful lot are, including an awful lot of opinion-formers, and we are subject to a great deal of criticism when we stay with this system. If we are still thwarted in this aim—now that the current is, on the face of it, moving so obviously in our direction—the people will know who is responsible. Indeed, responsible journalists ought to be loudly proclaiming where the blame will then lie: with the Government, not with us. I suggest that the Bill must not only be given a Second Reading but then proceed with celerity and no inhibition through the rest of its stages.

11.49 am

Lord Northbrook (Con): My Lords, I acknowledge the tenacity of the noble Lord, Lord Grocott, in promoting this Bill, and for reaching the age of 80 since we last debated it. It is for another day to discuss whether, in normal times, Private Member's Bills which do not pass your Lordships' House should have the same priority in the next Session. I do not like the decision to remove equal chances of any Private Member's Bill succeeding in the ballot, by instead cherry-picking a group on a rather unfair basis without consultation with the House.

As my noble friend Lord Trenchard has already said, the Bill is a breach of a promise given in 1999. On June 22 that year, Lord Denham asked the following question of the Lord Chancellor:

"Just suppose that that House goes on for a very long time and the party opposite get fed up with it. If it wanted to get rid of those 92 before stage two came, and it hit on the idea of getting rid of them by giving them all life peerages … I believe that it would be a breach of the Weatherill agreement. Does the noble and learned Lord agree?"

The Lord Chancellor replied:

"I say quite clearly that … the position of the excepted Peers shall be addressed in phase two reform legislation."—[*Official Report*, 22/6/1999; cols. 798-800.]

I also remind the House of the importance of the then Labour Lord Chancellor's words on 30 March 1999:

"The amendment reflects a compromise negotiated between Privy Councillors on Privy Council terms and binding in honour on all those who have come to give it their assent."—[*Official Report*, 30/3/1999; col. 207.]

For the hereditary Members of the House at that time, of which I was one, it was a vital part of the 1999 Act and a key condition for letting it make satisfactory progress through the House. Nothing could be clearer than a former Lord Chancellor's words: that is why I believe that the Bill indeed breaches the Weatherill agreement and the House of Lords Act 1999, as does a current hereditary Labour Peer. I also believe that, as a matter of principle, such major constitutional reform should be implemented by government legislation rather than by a Private Member's Bill.

Lord Anderson of Swansea (Lab): Does the noble Lord agree with Lord Salisbury that that agreement was brought about by undue pressure and substantial threats at the time?

Lord Northbrook (Con): No, I do not agree with that.

The current system for the election of the 92 can be fine-tuned. The change I would like to see is that all replacements should be elected by the whole House, which would give more logic to the Labour and Liberal by-elections in particular. Overall, the system controls the number of hereditary Peers to a fixed number and has produced good-quality replacements. The hereditary Peers are a strong link with the past, a golden thread that goes back to the first separate sitting of the House in 1544. Until relatively recently, in House of Lords terms, the House was entirely hereditary. By-elections provide a way into this House that is not dependent on prime ministerial patronage.

Since we last considered such a Bill from the noble Lord, Lord Grocott, the problem has been in controlling the number of life Peers—there have been no fewer than 62 new creations since the previous time we debated the Bill—and getting equal quality. I suggest that there should be elections among their numbers at each election to keep the total size of the House to, say, 500. To monitor quality, there should also be a statutory appointments commission whose verdict cannot not be overruled by the Government.

The Government's response to the Burns committee report, which recommended limiting the size of the House by a different method, was not encouraging. It said:

"The Government does not … accept the Committee's recommendation that the Prime Minister must now commit to a specific cap on numbers, and absolutely limiting appointments in line with the formula proposed";

hence it appears there will be no limit on the size of the House. If and when the Labour Party gets back into power, as the noble Lord, Lord Anderson of Swansea, so rightly said, it will also have to appoint a considerable number of new Peers to get its legislation through, so the size of the House will keep increasing.

With regard to further reform, we have also been promised a constitutional rights and democracy commission. I believe that we should wait for what this produces before acting on any constitutional Private Member's Bill. In summary, though, significant legislation to implement phase 2 Lords reform should be brought forward by the Government rather than by a Private Member's Bill.

11.54 am

Lord Moylan (Con): My Lords, being, I think, the last Back-Bench speaker in this debate presents certain challenges in finding something novel to say. I thought

I would begin by giving your Lordships a view of the House from a relatively recent arrival, who still has, if I can put this without being offensive, one foot in the real world, or the outside world—just about—but who has developed a degree of affection for the House over the year that I have been here. I have two contradictory observations from many occasions over the last year when I have listened to your Lordships, but not participated, in what were essentially internal debates about the organisation of the House, its composition and so forth.

The first is that your Lordships are rightly proud of the very good work undertaken in this House: the work to improve legislation, which I have seen myself, and the work done by Select Committees—to mention just two examples of the justified pride that your Lordships take in the work that you do. At the same time, I notice the periodic tendency of noble Lords to beat themselves up about two issues in particular: the number of Peers in the House and its composition, which is principally to do with the hereditary Peers who are sitting here. It is undoubtedly the case that the latter is in some sense the cause of your Lordships' frustration that the outside world is not giving proper recognition to that very good work, so I have a few words of assurance for you.

Outside this House, nobody cares how many Members the House has. Nobody cares about the composition and the role of hereditary Peers. There has been by-election campaigning over the past few weeks in Old Bexley and Sidcup, and I congratulate the new Member of Parliament; there is another by-election campaign taking place in Shropshire at the moment. I am absolutely certain that if all the politicians—those from this House and others—who have traipsed to those places in recent weeks and will continue doing so, were asked how many people on the doorstep voluntarily raised the composition or the numbers of this House, or even had a view on that if pressed, the answer would be negligible.

Baroness Meacher (CB): My Lords, I understand the point that the public are not terrifically aware of the composition of the House and so on, but the journalists are and they are ruthless about this House. They ignore us and are rude about us; that is the reality.

Lord Brown of Eaton-under-Heywood (CB): And they influence the wider public.

Baroness Meacher (CB): They influence the wider public but they also influence MPs and Parliament. It makes it very difficult for this House to be as effective as we should be, bearing in mind the quality of the people in the House of Lords.

Lord Moylan (Con): My Lords, I really do not think that we are to be driven by a small number of journalists who have a particular view on the topic, which the public do not share. If we are accountable to anybody, it is to the public for whom we legislate. We do not legislate for journalists; we contribute to legislating for members of the public, and they do not have a particularly strong view.

One of the reasons for that is that the hereditary principle is embedded in our constitution, and the monarchy is a popular feature of our constitution. Although the noble Lord, Lord Grocott, whom I have always found in our work together on the Built Environment Select Committee to be extremely courteous—and, I would say, mildly conservative in his personal habits and conduct—would no doubt want to make a radical dissociation between his views on the hereditary Peers who sit in this House, not personally but as a concept, and the monarchy, the two are related. People understand that there is an element of traditional authority in the way in which this country is run, which they accept more easily and comfortably than they do new and innovative constitutional concepts.

But, even assuming that we were ridiculous in the minds of a small number of journalists and that this really mattered, I do not understand why we would be less ridiculous if the Bill were to pass. The majority—not all—of the Members of this House who are not hereditary Peers are here because of political appointment or because they have achieved a degree of eminence in the military or in their professions. I give all credit to those; I am not knocking life Peers—of whom I am one, of course—any more than I am hereditary Peers. But what is the rational basis or logic of that as a principle of composition of the House of Lords?

I note that the Bill provokes a great deal of excitement. I even heard the noble Baroness, Lady Meacher, advocating that, as a House, we should contrive to find a way to break the law—not simply to go back on an agreement but to break the existing law—by finding devices by which we could subvert our legal obligation to hold these by-elections, to force a change in the law. That is a degree of radicalism that clearly shows how strongly people feel about this. But the fact is that this is a damaging and dangerous measure. Other, more modest, measures could well be followed. Amending the succession rules of peerages to include female and male heirs or widening the electorate for replacements of hereditary Peers to include the whole House would be genuinely incremental changes, but this is a radical change.

I entirely support the Government in thinking that radical change of that character should not be undertaken piecemeal but should await a comprehensive proposal, which may indeed include an elected House; I would be perfectly happy with that. It should not be undertaken on the basis that, I fear, the noble Lord, Lord Grocott, knows is much more radical than he presents it in his modest way.

12.02 pm

Lord Wallace of Saltaire (LD): My Lords, I withdrew my name from this debate yesterday because I was told that it was likely to go on well after 1.30 pm, and I have to be up in Saltaire by 5.30 pm. It takes those of us who live outside the south-east longer to get home. I congratulate all those who have spoken on the self-discipline and brevity of their interventions, and I am therefore happy to speak briefly on this.

I joined the pre-reform House and I recall the Cranborne agreement directly because, as it happened, my wife and I were in the back of Lord Ashdown's car, as his wife drove us to a dinner in Windsor. We were

[Lord Wallace of Saltaire]
listening in to the negotiations that he was having with the Government about what Lord Cranborne had offered. I can confirm that this was clearly intended to be temporary—the pebble in the shoe, as the noble Lord, Lord Hannan, rightly said. The question is: when do we take the next stage of partial reform, and what should it be? I welcome the comment from the noble Earl, Lord Attlee, that there should be not just this Bill but also a statutory appointments committee. That is the least of the steps that we could next take.

Lord Lilley (Con): Who would select the people on this statutory appointments committee? Quis custodiet ipsos custodes?

Lord Wallace of Saltaire (LD): That is a question of public appointment, as we know, and there is some controversy about public appointments—but we have approaches to them. Making the committee on public appointments also a statutory body is perhaps also something that we need to do when we have a Prime Minister who is not, in the terms of the noble Lord, Lord Hennessy, a "good chap".

Earl Attlee (Con): My Lords, we already have an Appointments Commission for the Cross Benches.

Lord Wallace of Saltaire (LD): I thank the noble Earl. I agree with the noble Lord, Lord Hannan, that we should then move towards a partially elected House, at least, or perhaps even an indirectly elected House. That is the direction of travel in which we need to go.

We all know that the second Chamber does valuable work. I say to the Minister: yesterday, I was checking how long the House of Commons had spent scrutinising the Dissolution and Calling of Parliament Bill. It was just under two hours for Committee, Report and Third Reading. We ought to give that a little more scrutiny, and that is what this House is here for and does very well, as we all know.

My plea to the Minister is: I hope that he will imitate the example of the noble Lord, Lord Young, and do his best to stretch his brief. We all know that it will say that the Government are opposed to piecemeal reform, the time is not ripe and this needs further consideration. It is clear that this debate has been quite different from that of some years ago. Even in this House, the mood is changing. We will come towards taking this step within the next five to 10 years, and perhaps he might even suggest that it could be in the next Conservative manifesto. Therefore, I look forward to what the Minister will say, and I hope that he will give us a little encouragement at the very least—as far as his brief will allow it—and that we take this forward.

12.05 pm

Lord Collins of Highbury (Lab): My Lords, this is the first time that I have been able to contribute in a debate on the Bill. Unlike the noble Lord, Lord Hannan, I will give it a very warm welcome. My noble friend Lady Hayter said that she had had the pleasure to speak three or four times on these matters, and she highlighted that there has been serious foot dragging on the Bill, which has just two clauses.

I also thank my noble friend Lord Grocott, not only for reintroducing the Bill but for the regular updates that he gives us on the by-election process. It is a telling point that, throughout the period of the suspension of the by-elections, the world did not collapse and we carried on.

Noble Lords: Oh!

Lord Collins of Highbury (Lab): I accept that we were facing a huge crisis but, due to the hard work of our staff and noble Lords, Parliament continued its important work and was not stopped from doing it. Of course, since the suspension, we have had a glut of by-elections, which actually has highlighted the process even more. We can see some of the real anomalies about the process, particularly with some of the by-elections from the opposition parties.

The noble and learned Lord, Lord Brown of Eaton-under-Heywood, described the current system as racist and sexist. I quite like his description that it is an assisted places scheme that everyone is excluded from apart from hereditary Peers. That sums it up quite well.

There are debates about what is actually stopping progress. My noble friend Lady Hayter highlighted that, in the past, the Minister was honest enough to admit that much of the resistance to previous attempts was to further the Conservative interest. It is a simple fact that we have seen an in-built political imbalance in this sort of process.

The noble Lord, Lord Lilley, asked whether this works in practice. Of course, every noble Lord who has contributed to today's debate acknowledges the hard work of every noble Lord, particularly those who are here because of the hereditary principle. People actually contribute. Sometimes our biggest problem is those who have been appointed and do not contribute, and I hope that political pressure will resolve that in the relatively short term. But the credibility of the House and what we do is undermined by how membership can be achieved through a very strange system of by-elections, producing a self-perpetuating selection of new Members chosen by a tiny electorate.

I agree with the noble Earl, Lord Attlee, that it would be better if, before we had these debates, we could have a discussion, and take it into the country, about what we do rather than how we are here. What we do is an important debate. When I first joined the Labour Party in 1970, the position that I held then, and the party was strong in that view as well, was, "Let's get rid of the House of Lords: abolish the House of Lords". I have learned over the years, through many periods of Conservative Governments and other Governments, that there is a need for a second Chamber which does not simply follow, or is driven by, the mandate of the electorate. I have appreciated that scrutiny by this House has resulted in important changes to legislation that would not have happened otherwise. I suspect that, if we were wholly elected in the future and then became a challenge to the mandate of the House of Commons, there would be greater difficulties.

I think that the contribution of the Cross Benches is invaluable to the work of this House and I hope that will continue, but I accept that at some point in the

future reform must come, and particularly reform that reflects what we are as a nation: that we are made up of a number of countries and that we have strong regional elements that we need to address. There is a way of having that and it is of course through a constitutional convention. I hope that we will be able to achieve that in the very near future.

As for this debate, I must admit that I find it fascinating that most who argue against change do so on the basis that they want fundamental reform. That appears to be a bit of a contradiction and it ignores the fact that, since the 1999 Act, we have had a lot of changes that have improved this House and we should not forget that.

I was reminded by some of the contributions of that excellent book by Antonia Fraser. I do not know whether many noble Lords have read it, but it is a great book on the debates in this House on the 1832 Reform Bill. It is incredible how the hereditary principle was articulated then as, "It secures the nation. It's actually the continuity that's really important. We must never forget that. We can't allow the elected Commons to undermine that fundamental principle of our constitution." That was in 1832, and, of course, that was a very modest reform: it did not create universal suffrage; it did not change things. From 1832, a series of Acts extended the franchise. Of course, it is not that long ago that universal suffrage was finally established. People often go back to 1921 and so on, but until we got rid of the university seats in 1945, we did not really have universal suffrage.

The noble Lord, Lord Mancroft, referred to another issue that concerns me about this debate. We talk about appointed Peers and "elected hereditary Peers". I wish we would drop that term, because it is a simple fact that all hereditary Peers were first appointed—they were first appointed by a monarch at some point for some peculiar reason. The difference between an appointed hereditary Peer and appointed life Peer is that the former's contribution stops when they either leave this House or they die, but, apparently, that can carry on with hereditary Peers, irrespective of the qualities or experience that they may bring. That is what brings this whole process into disrepute. Many hereditary Peers in here would undoubtedly make extremely good life Peers and our work could benefit from that, but the idea that we should continue with this ridiculous hereditary process beggars belief. It is time for change.

I agree with the noble Earl, Lord Attlee, that some change has undesirable outcomes and that reform needs to be considered in the whole, but this great nation has benefited from incremental change. It has benefited from considered changes over a period of time. We are not a revolutionary country; we do not overturn everything and then hope for the good; we make incremental change, and that is why this modest Bill is so important.

I could not agree more with the noble Lord, Lord Young. What we had in 1999 was a short-term fix—it is long enough ago now—but what it has created is a long-term anomaly. Even if we adopt this modest measure, it will not stop other incremental change. I hope that on the basis of the Burns report and the other discussions that we have had—people talk about the Appointments Commission—we will have the opportunity to make further changes, which is really important.

To repeat the words of the noble Lord, Lord Cormack, this House wants this Bill to pass, and it wants the Commons to have the opportunity to consider it, so I hope that will be the outcome.

12.16 pm

The Minister of State, Cabinet Office (Lord True) (Con): My Lords, it is a great pleasure to be here on a Friday again on this subject. This is a House of Peers; that is what makes us so special. All of us are here for different reasons, with most of us appointed on the recommendation of one man or woman. It is sad when, directly or indirectly, anyone disparages any part of our membership, when all of us are here legitimately and by statute. One of the attractive features of this debate was that, almost all the time, we managed to stay on the right side of that and not to stereotype individuals but to argue about principles.

I of course congratulate the noble Lord, Lord Grocott, who knows of my personal respect and affection for him, on securing the debate. I was unkind enough in a debate earlier this week when he advanced a rather dubious argument to say that I would not want to play the three-card trick against him, but I would want to give him some money to put on the National for me in a betting shop, because his success in the ballot is remarkable. I am not a betting person, but if I see him at Grand National time, I will be coming his way.

This is the fourth Private Member's Bill seeking to abolish the by-elections that are held when a hereditary Peer vacates their seat in this House, as established under statute in 1999. I regret to say that the Government's position on the noble Lord's proposals remains unchanged, however commendable the resolve.

The intention of this Bill, in common with the earlier Bills, is to stop by-elections taking place when a hereditary Peer—

Lord Hain (Lab): Since there is overwhelming support for this Bill right across the House and since the Government are committed to reducing the size of the House, why do the Government not give time for the Bill to complete its stages in this House so that a final decision can be made, rather than our going through this whole thing year by year?

Lord True (Con): Well, my Lords, not everything that your Lordships are in favour of necessarily becomes law, and some things become law that your Lordships are not in favour of. I am not going to go back to the debates of 1999, and I am certainly not going to go back to the debates of 2019, unless provoked further.

The Bill would stop by-elections taking place when a hereditary Peer vacates their seat through retirement, expulsion or death. Over time, that would remove the presence of 90 of the 92 hereditary Peers. As the noble Lord, Lord Cormack, has pointed out, the noble Lord, Lord Grocott, wishes to keep the Lord Chamberlain and the Earl Marshall, but 90 of the hereditary Peers who sit in this House by statute, under the terms of the House of Lords Act 1999, would go.

[Lord True]

It has been a very wide-ranging debate. There is nothing that your Lordships like more—and I like it myself, actually—than talking about your Lordships' House. A lot of wider issues were brought in—even robes, although I do not see many of them here today. I do not propose either to reiterate the Government's reservations about this Bill in full, because they have been detailed by successive Ministers, very frequently, as my noble friend Lord Young of Cookham reminded us, during the several debates on previous iterations of the Bill, one of which reached Report. However, I shall draw a few brief points to the attention of your Lordships.

First, the House of Lords, as we all agree, has a key role in scrutinising the Executive and as a revising Chamber. It is important that how it is constituted reflects that role and the primacy of the House of Commons as the elected Chamber. My noble friend Lord Attlee early in the debate was followed by the noble Viscount, Lord Waverley, and the noble Lord, Lord Collins, opposite, stressing the importance of considering the overall role of the House of Lords going forward. The Government respectfully disagree with the noble Lord, Lord Grocott, that his Bill represents an incremental or piecemeal—whichever word is to your Lordships' taste—reform to this House. Indeed, it is the opposite. The proposed removal of hereditary Peers through this Bill, albeit gradually, would constitute a significant reform to the composition of this House. It would become, as my noble friend Lord Mancroft observed, a de facto appointed Chamber—saving the presence of the right reverend Prelates. I must say to the noble Lord, Lord Anderson of Swansea, that that would be a significant change. It was certainly considered when the first Bill was conceived that there would be a stage two; that was the assurance very firmly given. Recollections may vary of the negotiations, but I was also involved, and a very firm commitment was given at that time by the party opposite to move to stage two.

An all-appointed House is certainly the preferred model of the noble Lord, Lord Grocott, my noble friend Lord Cormack, and others who have spoken, and they are entitled to that entirely reasonable view. But others across this House hold different and, as we have heard today, equally reasonable views as to how we should be constituted. The point is that the Bill should not seek to address that matter through the back door. As the Government set out in our manifesto, we are committed to looking at the role of the Lords, but any reform needs careful consideration and should not be brought forward piecemeal, and certainly not reform of this kind, which would clearly change the composition of this House in a significant way, even if gradually.

Removing the excepted hereditary Peers would have further consequences, as Members on Benches opposite said, on party balance within the House. Presently within this House there are 47 Conservative hereditary Peers, 33 Cross-Benchers, four Labour hereditary Peers and three Liberal Democrats. I am not quite sure where the other two Liberal Democrats went to, but the numbers were not quite the same originally. There are also two non-affiliated hereditary Peers. That means that, if this scheme had not operated since 2003, there would now be 18 fewer Conservative Peers, 18 fewer Cross-Bench Peers and a far smaller reduction in the numbers on the Benches opposite. That is the flipside to the argument put by the noble Baroness, Lady Hayter, and the noble Lord, Lord Collins, in that obviously the passage of this legislation would be a great Labour Party gain, relatively, in party strength.

While some feel strongly that by-elections to replace hereditary Peers should end, others have disagreed, as we have heard in what has been a measured debate—and I welcome that. I hear no sign of some of the things that the noble Lords opposite may fear. We have heard from my noble friends Lord Trenchard, Lord Mancroft, Lord Northbrook, Lord Hannan of Kingsclere, Lord Moylan and others who believe that, while the issue of comprehensive reform remains unsettled, the excepted hereditary Peers should remain, as was the explicit undertaking and agreement in 1999, underpinned in statute. No one would deny, and actually no one has denied—and to go back to my opening remarks, I welcome that—the great contribution of excepted hereditary Peers to the work of your Lordships' House through their committee memberships and during debates in the Chamber. We all of us, wherever we sit in the House, feel that to be true.

While focusing on the issue—and I agreed with some elements of what my noble friend Lord Moylan, said, as a new Member, about how we are perceived—I certainly do not believe that we should be driven by elements of the media on this issue. As I have always said, we should concentrate not on knocking ourselves but on doing our work well, in playing a crucial role in scrutinising the Executive as a revising Chamber, while recognising the primacy of the elected House of Commons. While we have listened to debates on this topic, and will listen attentively and respectfully, if the noble Lord, Lord Grocott, moves that the Bill should be committed to a Committee, the Government's reservations on his proposals remain.

12.26 pm

Lord Grocott (Lab): My Lords, I wish that people did not have trains to go to, because I have about five hours of rebuttal here—and, my word, some of it does need rebutting.

I probably need to apologise to the House, because clearly four or five Peers must have dropped off during the latter part of my speech. It is not unheard of that people go to sleep while I am speaking, but they missed the chunk where I explained conclusively—there is no argument with this whatever—that the deal referred to by four or five noble Lords was one made under duress. That is precisely how it happened. Noble Lords do not need to take my word for it—as they clearly have not over the years, because I have made this point frequently. It was a joy to hear that, at long last, the Marquess of Salisbury, Leader of the Conservative group in the House of Lords at the time, has told us that that deal was made under the threat to the Labour Government of destroying our legislative programme. Think of the outrage of that: a Labour Government, with a majority of over 150—around double the majority of the current Government—being told by around 800 hereditary Peers, as there then were, "We're going to wreck your legislative programme unless you make major concessions."

I am being asked to give way, and I will—but it had better be good.

Lord Northbrook (Con): I am very grateful to the noble Lord, Lord Grocott. Does he recall the passage in Alastair Campbell's memoirs when he said that he could not believe that Viscount Cranborne was going to go along with this deal, as it was only going to end in tears for him?

Lord Grocott (Lab): I am not sure that I understood that intervention. I have read most of Alastair Campbell's memoirs—but I can tell the noble Lord what was going on in Downing Street in 1999, because I was working there. We were certainly worried to death about the whole of that legislative programme. Our clear manifesto commitment was to remove all the hereditaries, and we were prevented from doing that because we were told that the rest of the programme would be wrecked. If there are any noble Lords who have not picked up on that and understood it, will they please read it again in *Hansard*, or read the comments that the Marquess of Salisbury has made? Do us all a favour, please, and when or if we have this debate next year—if it fails this year, I shall bring it back, and that is not a threat but a promise—let us end the discussion about that. It is simply false, incorrect, wrong and absurd. I hope that I have made myself clear.

The other point that needs repeating, even though several—

Lord Lilley (Con): I am grateful to the noble Lord for giving way. My understanding was that at the time, if he wished to, the Prime Minister could have created enough Peers to get his legislation through.

Lord Grocott (Lab): I can only assume from that that the noble Lord, Lord Lilley, would have been in favour of a Prime Minister, with a clear manifesto promise and a huge majority in the Commons, creating 700 or 800 Peers in order to get his legislation through the Lords. He talks about respecting tradition and not upsetting the apple cart too much, but that is an outrageous suggestion and I think he knows it.

Earl Attlee (Con): My Lords, the Prime Minister at the time did have another option of course, which was to have a general election. Peers versus the people—we know what the result would have been. We took full account of that, because I was there at the time.

Lord Grocott (Lab): Is the noble Earl, Lord Attlee, suggesting that a week or so after winning a majority of 150 in the House of Commons, on a manifesto commitment to get rid of all the hereditaries, it would have been a good idea to hold another election so quickly?

Earl Attlee (Con): My Lords, we knew that we had to comply with that manifesto commitment. The party opposite and the Prime Minister were out-negotiated by Lord Cranborne.

Lord Grocott (Lab): It was not complied with, as he perfectly well knows. You do not need a second general election in order to validate the promises made at the first one a few weeks before. We are getting into the ludicrous weeds at the moment, I have to say.

The other thing that people simply have not given an answer to is the point made by the noble Lord, Lord Cormack, and my noble friend Lord Anderson that Governments cannot bind their successors. This is line one, rule one of any course on the British constitution, which everyone seems to understand. I never thought I would need to explain that to Members of the House of Lords. Of course you cannot bind your successor. As the noble Lord, Lord Rennard, said, why would you bother having elections if that applied?

I thought I would check the figures. If we look at the people who were actually in either House in 1999 when this binding—we are told—agreement was made, which all of us must abide by, most people were not in the House of Commons or the House of Lords at that time. Some 75% of this House—590 of us, including me—arrived after the 1999 deal, or so-called deal, was struck. In the Commons, the figures are even greater: 90% of MPs in the Commons have come here since 1999; only 62 of the 650 Members of the House of Commons were here in 1999. Do eight or nine people in this Chamber today have the affront to say that those Members of the House of Commons and of this House must absolutely deliver to the letter the deal that was made, which in some cases was before they were born? It is an absurd argument. I feel as though I am dealing with a new class on the British constitution sometimes, when I am winding up these debates. Those are the figures.

I am obviously grateful to so many of my colleagues and Members on the other side; the strength of feeling on this is reflected right across the Chamber. I have to mention the noble Lord, Lord Young—I was not born yesterday; I knew that, when he was giving the answers from that Front Bench, he basically did not believe a word of it. I am not one to talk, because I have whipped a few Bills through that I did not believe a word of, but that is life.

Viscount Waverley (CB): I apologise for intervening, but hope that the noble Lord considers what I say sensible, and I give him an opportunity to reflect as he now winds down, regarding moving this Second Reading Motion. I certainly recognise his frustration. He has given this subject, yet again, a very good airing. However, in the circumstances, and given that the Government seemingly will not give their support to this Private Member's Bill, I wonder, with regret, whether frankly this time around it is yet again a lost cause and whether the nob le Lord might wish to consider not moving it through the process.

Noble Lords: Oh!

Lord Grocott (Lab): My Lords, I am a lifelong season ticket holder at Stoke City, so I am used to lost causes—but you do win occasionally. Sooner or later, I will win with this, I am quite sure about that.

Viscount Waverley (CB): My Lords—

Lord Grocott (Lab): My Lords, I do not think that I will give way again, much as I enjoy the interventions, but "holes" and "stop digging" occur to me every time someone intervenes. People will expect me to move on.

[Lord Grocott]

I noted what the noble Lord, Lord Lilley, said about principle. I think he was basically saying that the Labour Party is driven by principle irrespective of whether it works, whereas the Conservative Party is more pragmatic. I certainly am not ashamed of the principles that I have stuck to during my career. I have noticed, in talking to one or two opponents of this Bill—and there are only one or two opponents—that I learn more about the Tory party the older I get; they have a deep underlying principle at stake. It is only for a small proportion, but a good few of them in here: their principle is taking the word "conservative" literally to mean "do not change anything". I had a word with them—it was a private conversation so I will not reveal any names. A Tory came to me to say he was sorry but he was not able to support the Bill. I asked why not, and he said "Well, I am a proper conservative: I am not even that keen on the 1832 Reform Act." That is, I have to acknowledge, a proper Conservative. Of course, it is at complete variance with the Tory party—I am in awe of its skills in that it manages to do somersaults on leaderships, policies and anything else as long as it keeps itself in office; I have noticed that over the years.

A number of people also mentioned the possibility of more time for this Bill. I am very grateful for the suggestion made by the noble Baroness, Lady Meacher, which is one that has crossed my mind from time to time. She was completely misrepresented by the noble Lord, Lord Moylan—I think, I am sorry if I am wrong—who said that she was recommending breaking the law. She was not recommending doing that at all; if she was, then so was the Leader of the House when she proposed a suspension of the by-elections, which I referred to and which was carried. That was precisely what the noble Baroness, Lady Meacher, was saying: there is maybe a case for the House deciding to suspend the by-elections while this Bill, or maybe its successor, is being considered. That seems to be a perfectly proper, sensible and quite persuasive argument as far as I am concerned. I hope that the House might be asked to make a decision of that sort and that it would be desirable.

I noted another couple of points that the noble Lord, Lord Moylan, made. One of them, which I have to say I do not think was very persuasive, was that because we have a hereditary monarchy, we need to keep hereditary people in the House of Lords. The reason we have a constitutional monarchy, as much as anything else, is because the monarch absolutely eschews any kind of legislative power. When was the last time a monarch said no to a Bill? I think it was Queen Anne; I seem to have been told about that once. We debated all this on Tuesday with the dissolution Bill. At all costs, the monarch must not be involved in political and law-making matters, but the 90 hereditary Peers in this House are intimately involved in passing laws which the rest of us have to abide by. So I found that a pretty weak argument.

One argument made by the noble Lord, Lord True, was not so much weak as inconsistent. He has said several times, from the Front Bench but also from the Back Benches, that, as far as the House of Lords was concerned, he did not agree with piecemeal change. He argued that we needed major changes and major comprehensive reforming proposals. But I noticed that he said in winding up that this Bill was not a trivial Bill—that it was a very fundamental Bill about the nature of the House of Lords. So I can only say to the noble Lord, Lord True: which is it? If it is a major constitutional Bill, which is what he is rather suggesting, it is something he might at least want the House to debate, consider and determine.

He was also wrong to say that the Government's position over these past five years and four Bills was unchanged. The Government's position was not unchanged; they kept moving the goalposts or changing the excuses. I was told, first, that the Government did not have time for the Bill because of the Brexit debate that was going on and because everything was very busy. The next time, I was told that it could not go on because of the Burns report on the size of the House—I think that was one of the arguments deployed by the noble Lord, Lord Young—so it was premature to discuss it at that time. Now we are being told that we do not have time to discuss it because it is a major change—despite the fact that the Minister has said that he is in favour of major changes, not piecemeal ones. So, I have had difficulty in following some of the arguments.

The noble Lord, Lord Moylan, also argued that on the doorstep in north Shropshire, or wherever, he did not see people demanding a change to the hereditary by-election system in the House of Lords. Hold the front page—of course he would not have seen that. I have been canvassing longer than him, because I am older than him, but let me tell him that on the doorstep in most of the by-elections I have been involved in, the Government never mention any of the legislation going through Parliament at the time. Indeed, many people—including, I am sure, the noble Lord, Lord Moylan—voted on Tuesday for Second Reading of the dissolution Bill. It is a very important Bill in my book, but I very much doubt whether the people of north Shropshire are lying awake at night worrying about the dissolution Bill. It is a most absurd basis on which to reject a piece of legislation: to say that we should not do anything about it in this House because, at 8 pm, when "Coronation Street" has just finished and someone comes to the door, people do not start talking about the House of Lords hereditary Peers Bill. I am at a loss with some of these arguments.

People will be missing their trains. All I can say is, let us respect the overwhelming view of the people in this House and get this Bill on the statute book.

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

Cigarette Stick Health Warnings Bill [HL]

Second Reading

12.45 pm

Moved by ***Lord Young of Cookham***

That the Bill be now read a second time.

Lord Young of Cookham (Con): My Lords, I hope that we will now move to calmer waters.

I am sanguine about the prospects for this Bill reaching the statute book at this late stage of the Session. However, that is not fatal as its provisions could be implemented by a simple amendment to the Tobacco and Related Products Regulations 2016—easily done now that we have left the European Union. I have chosen this subject to keep up the pressure on the Government on public health and to help shape the agenda for the forthcoming tobacco plan; perhaps my noble friend the Minister can say when we might expect it. I do so also because the campaign against the harm done by tobacco has been one of my preoccupations since entering Parliament in 1974.

This Bill extends the logic of health warnings on cigarette packs to the cigarettes themselves. If implemented, it would require both cigarettes and cigarette papers to display health warnings such as "Smoking Kills" or "Smoking Causes Cancer". I first proposed this measure as a Health Minister in 1979 in Margaret Thatcher's Government. I was told by representatives from the tobacco industry that we could not add health warnings to cigarettes because the ink used to print the warnings could be hazardous to health. Thankfully, the debate around tobacco control has progressed significantly since then, and I am confident that noble Lords will see the compelling case for dissuasive cigarettes. From being an initiative that, I believe, I was one of the first to suggest, it now commands broad support from the Royal College of Physicians, Cancer Research UK, the Health Foundation and the Association of Directors of Public Health—in all, some 71 organisations concerned with reducing the harm done by tobacco.

Smoking remains a leading cause of premature death. The Chief Medical Officer, Chris Whitty, has said that it is likely to have killed more people last year than Covid-19. However, smoking kills on the same scale every year and will go on doing so for years without robust action. In 2019, one in seven of the UK population were smokers. In England alone, around 280 children under 16 start smoking for the first time every day. Smoking is highly addictive: only one in three smokers will be able to quit before they die.

There is evidence that, over time, the responsiveness of smokers to existing warnings declines. New techniques are therefore needed to refresh their interest. Cigarettes are cancer sticks and consumers should be warned on the product, not just on its packaging. There is a growing body of research evidence from around the world supporting the effectiveness of what are known as "dissuasive cigarettes", particularly in making cigarettes less attractive to younger adolescents and those who have never smoked.

This measure is popular. In a poll conducted by YouGov for Action on Smoking and Health, 70% of those surveyed supported health warnings on cigarettes, two-thirds of them strongly. Only 8% opposed the proposal. This includes majority support from voters from every main political party, including 70% of those who voted for my party in 2019. Adding health warnings to cigarettes and cigarette papers is a simple measure with minimal cost that would help deliver the Government's Smokefree 2030 ambition. Tobacco manufacturers already print on cigarette papers, so this would be cheap and easy to implement.

This measure was one of several tobacco amendments to the Health and Care Bill tabled in the other place by officers of the APPG on Smoking and Health, of which I am a vice-chairman. As it stands, the Bill fails to include a single mention of smoking or tobacco and represents a significant missed opportunity to introduce key policies for achieving Smokefree 2030. Disappointingly, the Government refused to adopt the recommendations in the Commons, saying that they needed to

"conduct some further research and build a more robust evidence base in support of such additional measures before introducing them."—[*Official Report*, Commons, 28/10/21; col. 812.]

However, these warnings are already under consideration in Canada, Australia and Scotland. Here is an opportunity for the UK to be ahead of the curve instead of waiting for others to lead. The robust evidence will be available only if someone does it.

Health warnings such as "Smoking kills" have been shown to be effective on billboards and tobacco packs, so why would they not also be effective on cigarettes? Adding warnings to cigarettes is important, because young people in particular are likely to start with individual cigarettes rather than packs. In addition to all the existing research on the effectiveness of health warnings, there have been at least eight peer-reviewed academic studies published since 2015 which specifically looked at warnings on cigarettes and found them to be effective, particularly in making cigarettes less attractive to younger adolescents and never-smokers.

This is a simple measure with minimal cost that would help deliver the Government's ambition to make England smoke-free by 2030. This worthy ambition was announced in 2019, yet we are still waiting to hear what steps the Government will take to make it a reality. At the current rate of decline in smoking prevalence, Cancer Research UK has estimated we will miss that ambition by seven years, and double that for the poorest in society.

We will achieve a smoke-free 2030 only by motivating more smokers to make a quit attempt, using the most effective quitting aids, while reducing the number of children and young adults who start smoking each year. Dissuasive cigarettes will contribute to both objectives and reinforce the impact of other measures which require significant investment, such as behaviour change campaigns and stop smoking services.

This measure, along with the other tobacco amendments proposed in the Commons, will be retabled in the Lords after Second Reading next week by myself and colleagues from the All-Party Group on Smoking and Health, some of whom I welcome in today's debate. I am confident these amendments will have strong cross-party support.

I end by quoting my honourable friend Bob Blackman MP, chairman of the all-party group, speaking during a recent debate on the Health and Care Bill in the other place:

"if we look back over the years, the measures on smoking in public places, on smoking in vehicles, on smoking when children are present and on standardised packaging of tobacco products were all led from the Back Benches. Governments of all persuasions resisted them, for various reasons … but we on the Back Benches who are determined to improve the health of this country will

[Lord Young of Cookham]

continue to press on with them, and we will win eventually. It may not be tonight, but those measures will come soon."—[*Official Report*, Commons, 22/11/21; col. 74.]

I can assure the Government that, when the Bill comes to the Lords, we in this Chamber will take up the challenge. I beg to move.

12.52 pm

Lord Rennard (LD): My Lords, almost exactly 20 years ago, I described in this place how 300 lives were being lost each day in this country because of smoking tobacco. I asked then what the scale of public outcry demanding action would be if a similar number of lives were lost as, say, the result of a plane crash occurring every single day. My speech was in support of my noble friend Lord Clement-Jones's Tobacco Advertising and Promotion Bill, a Private Member's Bill which he successfully steered through all its stages and which, when it became law, largely banned tobacco advertising.

Measures of tobacco control such as that have been shown to be effective and significantly reduced rates of smoking in this country. The facts have refuted the many self-interested and bogus claims made over many years by the proponents of the tobacco industry. However, further action is needed because smoking remains a leading cause of premature death, now killing around 250 people every day in the UK. To put that in perspective, 151 people died yesterday as a result of the Covid pandemic. People should be horrified to hear that smoking is likely to have killed more people last year than Covid-19.

We need this Bill to help reduce the appeal of cigarettes to children and young people and to encourage existing smokers to quit. Who could seriously disagree with those aims, given that half of all people who smoke will die because of the habit and most people who take up smoking do so when they are young?

The warnings on cigarette packs have helped to inform smokers of the serious dangers associated with the habit and helped some of them to quit, but evidence shows that the effectiveness of pack warnings wanes over time, and new measures are needed to grab the attention of those who continue to smoke.

It is a terrible thing, as the noble Lord, Lord Young of Cookham, referred to, that many children have access to individual cigarettes. This means that a health warning on individual cigarettes is necessary to help prevent young people taking up the habit. Warnings on cigarette sticks are a logical next step, following the successful introduction of warnings on cigarette packs.

Reducing the number of children and young people who take up smoking is vital if we are to reduce health inequalities. Half of the difference in life expectancy between those in the poorest communities and those in the most affluent in this country is accounted for by smoking tobacco. Tackling this issue is a must if levelling up is ever to be a meaningful and not meaningless slogan. Around two-thirds of adult smokers take up smoking as children. Currently, 280 children take up smoking every day in England. Only a third of these children will presently succeed in quitting during their lifetime, and another third will die of a smoking-related disease.

The Bill's proposal should not be seen in isolation, but as part of a comprehensive strategy for delivering the smoke-free by 2030 ambition, which is government policy and to which we all subscribe. The detail of all that is required was set out in the latest report from the All-Party Group on Smoking and Health, of which I am proud to be a member. I am pleased that the Government have committed to considering its recommendations for the forthcoming tobacco control plan, but we are still waiting to hear when we will see the details of that plan, publication of which is not yet in sight.

We cannot afford to wait before acting. The Health and Care Bill presents a perfect opportunity to enact measures to reduce the prevalence of tobacco smoking and, in particular, to reduce the number of children and young people who become addicted to it. The Government's Bill could provide for the introduction of dissuasive cigarettes, as suggested in this Bill. Further amendments could provide for a complementary package of proposals to address the loopholes in existing legislation, strengthen tobacco regulation still further and provide the funding for tobacco control measures, which are desperately needed if the Government's stated ambition of being smoke-free by 2030 is to be achieved.

In the meantime, we should signal strong support for this Bill, as we did 20 years ago for my noble friend Lord Clement-Jones's Tobacco Advertising and Promotion Bill. As I said then:

"There are many terrible things in this world: natural disasters and those made by man. Sadly, there is nothing we can do about many of them. But smoking-related deaths and illnesses are terrible things about which we can do something, by supporting the Bill."—[*Official Report*, 2/11/01; col. 1685.]

12.58 pm

Lord Naseby (Con): My Lords, I declare an interest; I have never smoked in my life, but I hold a modest amount of stock in British American Tobacco. More importantly, in the late 1960s, I was a director of a substantial advertising agency handling the Gallaher brand's advertising, and I have therefore taken a particular interest in this market ever since.

I remind the House that we are talking about a legally marketed product, not one that is illegal on the market. There are, as noble Lords will know, significant health warnings on the packaging. That was introduced not so very long ago. I was in the communications industry; there is no evidence that those warnings are now useless or diminishing in effect. If you go into any CTN or tobacconist's today, the cigarettes are not on display; they are behind the shutters, and that is all well controlled.

In my judgment, the Government should focus on investing in public information campaigns, which they have been doing. That is a much more effective way to raise awareness of the impact of smoking and highlight the widespread availability of alternative smoke-free nicotine products such as e-cigarettes, nicotine patches and heated tobacco products.

In addition, the regulations are already clear that tobacco products with a clearly noticeable taste or smell other than that of tobacco are prohibited. We do not need any new regulation. When one looks also at

the purported health benefits of implementing a ban on using flavours as ingredients, it is entirely speculative. The ingredients do not encourage smoking or prevent smokers quitting.

On the question of age, I remember that when I was flying for national service in Canada at the age of 18, there was a ban on young men going into pubs if they were under the age of 21. All we did was make sure we found someone who was 21 and he bought the alcohol. Exactly the same would happen here. At the age of 18, adults are well aware of the risks associated with smoking and should be free to access a legal product if they so wish, as they do with alcohol. Raising the age to 21 will not change the demand for the product. Instead, it will result in 18 to 21 year-olds shifting from legal, tax-paid products to unregulated and untaxed products from illegal channels.

On a practical level, the age at which people can access restricted projects such as alcohol, tobacco, vaping, betting and the National Lottery has thankfully been standardised by Her Majesty's Government, and it would be an absolute waste of time and confusing to the consumer if this bit of another market was done at different age.

Then there is a call for stricter control of retail licensing of selling tobacco products. But the tobacco traceability and security features system, known as the track and trace system, already provides a de facto retail registration scheme. An important point is that retailers cannot legally sell tobacco products unless they are registered through this system. Alongside that are regular, unnoticed, unnotifiable checks on all retailers. That is the most effective way to ensure that they comply with that. The most effective way to protect legitimate businesses and government revenues, as I point out to my noble friend on the Front Bench, is through the tobacco traceability and security features system registration and the enforcement measures associated with it. That is key to the whole thing, really.

The tobacco industry itself supports a significant increase in penalty thresholds, reflecting the quantity of illicit tobacco that has been seized, and whether it is a first or second offence that has been committed. As I understand it, the tobacco industry currently adopts and advocates a wide range of measures to prevent young people taking up smoking. For instance, as we all know, there is the CitizenCard—although perhaps we do not all know, judging by one or two of the comments made this afternoon. That card is recognised by the PASS proof of age scheme and supported by the Home Office, the Chartered Trading Standards Institute, the Security Industry Authority and the National Police Chiefs' Council. In conjunction with the proof of age card, the CitizenCard runs a wide UK campaign, and that creates a good barrier to prevent underage people buying tobacco products. If any retailers do not do it properly, they are reported to trading standards for follow-up and possible enforcement.

Finally, looking at the industry levy itself, following a public consultation by Her Majesty's Treasury in 2015 into the design of a levy on tobacco manufacturers' profits, the Government concluded that it would be unworkable and so decided not to introduce it. Nothing has changed since then, and the reasons for rejecting this approach remain valid. On 16 June Her Majesty's Government restated their position on the tobacco levy:

> "We do not believe a levy is an effective way to raise revenue or protect public health."—[*Official Report*, 16/6/20; col. 189.]

I will finish on the question of whether there should be a profit cap on individual manufacturers and importers. At this time and in this country, we do not want to put a message out to the world that we, as a Government, are interfering in a legitimate business, and wish to ensure that it is difficult for that to go forward. This Bill is totally misguided. Its promoters are ignoring the extensive controls that there are already. It interferes with individual liberty to choose, and above all it sends out a message that the UK is hostile to business, which is not a message that I wish to see.

1.06 pm

Baroness Uddin (Non-Afl): My Lords, I thank the distinguished noble Lord, Lord Young of Cookham, for bringing this Bill to the House. It is a privilege to stand in support of it.

I am a lifelong one-woman evangelical missionary in my family for the anti-smoking movement—not at all successfully in the end. I confess that at 11 years of age, alongside my cousin and brother's band of brothers, a cricket team, I participated in the initiation of smoking the dried stick of a flower plant. I put on record that I cannot recall what it was, only that it smelled good.

I am happy to say that almost all of us did not become lifelong smokers. I put away these encounters until my marriage to a devotee of nicotine who has completely ignored me, and all government campaigns and advice. Sadly, four of our children have subsequently smoked, although happily they do not smoke now—and there is no smoking allowed inside my house. As if this was not enough, as a professional, I proceeded to work with smokers who progressed to being addicted to cannabis and other weed products. Therefore, I have witnessed some of the evident damage that smoking causes to health and well-being, as well to as the NHS and the health of our nation, with the associated dimension of increasing allergies and asthma among children. I fundamentally disagree with the noble Lord, Lord Naseby.

We must acknowledge and welcome the progress of government action on reducing smoking among the general population. We have come a long way and now have a greater level of knowledge and understanding of the devastating health impact and addictions that result from smoking. I assume that there is sufficient research and evidence on the serious injury and impact of smoking on young brains, as well as on the immense long-term destruction caused by smoking addiction. Smoking continues to cause premature and painful deaths, as has already been said by noble Lords. It is harrowing to learn that each day nearly 300 children under 16 smoke for the first time.

As a professional working in the field of drug addiction, I know all too well the implications for these adults who begin by trying smoking and then smoke into later life, experimenting with many other forms of addiction. I was speaking a few days ago to

[Baroness Uddin]
one of a group of young people in their 20s. A former smoker, he had proceeded to try cannabis and unsafe weed. I asked whether the warnings that have been suggested on cigarette papers would be a strong enough deterrent. The response was simply that, once they are hooked on the products, the warnings to quit smoking imminently have difficultly impacting their and their peer group's decisions. However, he made the point that access to cigarettes was the main factor and that, although it is illegal, they can be bought from some shops quite easily by children as young as 12 or 13.

This one opinion is reinforced by ASH's point that smokers are becoming too familiar with, perhaps complacent about, existing warnings and that we may need to explore alternative techniques to break what often becomes a lifelong, habitual practice, which is difficult to break away from and an embedded part of social interaction with peers, among younger groups. While there is clear evidence that the anti-smoking campaigns and education programmes have been impactful, resulting in dropping numbers of smokers among certain groups of the population, including pregnant women—on which I have done a lot of work in the community—this is not evident among larger numbers of children in some parts of inner cities. Where I live, the numbers gathering outside school gates speak volumes about the societal failure of public education on the danger of beginning smoking when young.

The message that smoking kills or causes cancer on every cigarette stick may not prevent the first test of peer pressure or experimental trial, but it would certainly reinforce the warning to children about the danger of smoking in the long term. That is very important. Therefore, I am in favour of making all the necessary efforts to warn against the danger of smoking and this should extend to writing warnings on all cigarette papers, including the filters used with hand-rolled tobacco. The latest fad of vaping also requires our attention, as it will be an imminent problem, because it still contains significant amounts of nicotine.

I would like to see more specific public education targeting children and families on the danger of addiction to smoking. The promise to create a smoke-free England by 2030 is a huge challenge, knowing that even then millions will have perished in its wake. Nevertheless, we should remain committed to these ambitions, and I thank the noble Lord, Lord Young of Cookham, and other noble Lords for their sterling efforts.

1.12 pm

Lord Moylan (Con): My Lords, it is painful for me to find myself in disagreement with my noble friend Lord Young of Cookham. It is astonishing that he has brought this Bill forward in the middle of the Covid pandemic, because there are three well-established principal risk factors in relation to the harm you suffer if you contract Covid and fall ill with it. They are age, sex and smoking. To avoid the harmful effects of Covid infection, you overwhelmingly want to be young, moderately want to be female and mildly want to be a smoker—but he does not want to put that fact on cigarettes. I looked in vain in the schedule for a piece of scientific evidence or statement that would derive from that scientific proposition. What he actually wants to put on the cigarettes, as shown by the words in the schedule, is lurid propaganda, not facts or evidence.

We turn first to the evidence. I was confused—and I will give way if my noble friend wants to explain—by what he said about the evidence for the effectiveness of this measure. He said, first, that it had never been tried and that there was therefore no evidence. He went on to say that, since 2015, there had been a number of peer-reviewed studies on the effectiveness of health warnings on cigarettes. Perhaps he meant cigarette packs, but he actually said "on cigarettes". What is it? Is there evidence that the measure he is proposing is going to work or, since it has never been tried, is there not? My view is that it is likely he is saying that there is no evidence at all. We now have a Bill promoting propaganda with selective statements based on no evidence at all. Why would we want this?

The second reason is that the Bill—and this is a really awful pun—is a smokescreen. It is intended as a provocation on the way to achieving the stated objective of Action on Smoking and Health, which is a smoke-free Britain or UK by 2030. I think that is the target date, but I am happy to be corrected. There is no electoral mandate or evidence of electoral support for this policy. It would be better if those promoting these provocative and regressive measures were more honest and came forward with a Bill that actually criminalises smoking cigarettes, so that we can have that debate.

Finally, it is a patronising Bill because it is based on the assumption that adults are incapable of making an appropriate trade-off between the pleasures of cigarette smoking and the undoubted risks that it brings for the smoker. That is another reason why I think this House should have nothing to do with it. In my limited experience here, some Bills are bad Bills, but this is the first Bill I have come across that I suspect is just designed to provoke. I hope that the Government will not give it their support and that it will not pass.

1.15 pm

Baroness Merron (Lab): My Lords, it is a pleasure to speak in this Second Reading debate on a Bill on which varying views have been expressed. I fear that the noble Lords, Lord Moylan and Lord Naseby, will be somewhat disappointed in me, but it is a risk I am prepared to take because I congratulate the noble Lord, Lord Young, on bringing the Bill forward today. He rightly commands much respect across the House and is a doughty and informed campaigner on this issue.

I am pleased to say that this measure, which was proposed in the other place as an amendment to the Health and Care Bill, has the support of these Benches. It is important to remember why we are talking about it today. We are not talking about it as a measure for a measure's sake, but as a major contribution to the improvement of people's health, the reduction of inequalities and people living longer and healthier lives. That is the reason we are discussing it today.

We welcome the Government's ambition to be smoke-free by 2030, and I hope the Minister will be able to welcome the measures outlined in the Bill. If we look

at the 2019 prevention Green Paper, the Government committed to making smoking obsolete, but regrettably there is still no sign of the proposed and promised bold action that they agreed was essential to achieve that extremely challenging shift. There have been great strides in reducing smoking rates and improving people's health and life expectancy over the past 20 years, but we must acknowledge that a continuing decline in smoking rates is not guaranteed and needs further work. As we have heard, evidence shows that we must constantly renew and refresh our tobacco control strategy to avoid stagnation in smoking rates and a widening of the already significant inequalities in rates between those who are richer and those who are poorer. With only nine years left to end smoking, Cancer Research UK analysis shows that the 2030 target will be missed by seven years and that it will be doubled for the most disadvantaged. I hope that is of concern to this House.

I am pleased to observe that tackling smoking is not a party-political issue. Governments of all stripes have implemented a comprehensive approach to tobacco control, starting at the beginning of this century with banning smoking in public places and in cars carrying children, then the point-of-sale display ban, which I saw through as Minister of Public Health at the time, through to standardised tobacco packaging. They have all helped to drive down smoking rates and have discouraged people, particularly the young, from starting smoking in the first place.

Nowhere is this consensus more evident than in the cross-party support for the Government's smoke-free 2030 ambition, which if delivered would represent one of the most transformative public health statements and achievements in modern history. It is supported by more than three-quarters of the public, with majority support from voters of all political parties. This suggests a mandate to demand bolder action from the Government to end smoking by 2030.

Ending smoking will improve the quality of people's health and save millions of lives in decades to come. It will also help to dramatically reduce health inequalities and lift thousands of households out of poverty, making it absolutely central to the levelling-up agenda. Tobacco is the leading cause of health inequalities in our society and is responsible for half the 10-year difference in life expectancy between the richest and the poorest. For every smoker who dies, another 30 are suffering from serious smoking-related diseases that affect not just the smoker but all those around them. This burden is disproportionately concentrated in our poorest communities; the Covid pandemic has really laid this bare for all to see. Consequently, people in these communities would accrue the greatest benefit from policies to deter people from smoking and make it easier to quit. Ending smoking for all would lift 500,000 households out of poverty. That includes 740,000 working-age adults, 180,000 pensioners and 330,000 children concentrated in the north and Midlands.

Ending smoking in these communities would not just benefit the health and well-being of individuals but inject into local economies money previously and literally going up in smoke. This would show just how serious the Government are when they talk about levelling up, but disappointingly they have thus far opted not to support the amendments proposed to the Health and Care Bill to get us on track to meet the smoke-free 2030 ambition. This includes the measure we are discussing today. These amendments form a key part of the comprehensive package of messages and measures needed to drive down overall smoking rates while also tackling the disproportionately high rates of smoking among poorer and more vulnerable groups.

To their credit, Ministers in the other place expressed support for the principle behind the amendments, but said they needed more time to consider the proposals. My point to the Minister today is that it has been more than two years since the Government announced the 2030 ambition. With that in mind, when will action be under way to deliver this important commitment?

Ministers have also stated that the Health and Care Bill is not the right place for measures to tackle smoking, which will instead be announced and introduced in the forthcoming tobacco control plan. However, this plan has already been delayed twice and seems unlikely to be published this year as proposed, meaning that we might not see concrete action to deliver the smoke-free 2030 ambition until 2023. When can we expect to see the plan?

We cannot afford to wait this long. The Government have the opportunity to adopt this Bill or accept the tobacco amendments to the Health and Care Bill. We have an opportunity now to move this agenda forward and start building back the nation's health as we emerge from the worst of the pandemic. I urge the Government not to waste this chance. The Bill would play a contributory and important role in helping us reach the smoke-free 2030 ambition. I hope the Government feel able to support it.

1.24 pm

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Kamall) (Con): My Lords, I add my congratulations to my noble friend on progressing his Private Member's Bill to this stage and on securing this important debate.

Over the past two decades the UK has introduced a range of public health interventions and a strong regulatory framework to help smokers quit, and to protect future generations from using tobacco. Thanks to these, smoking rates in England are down to a record low of 13.9%, from 19.8% in 2011. If we go back even further, we see that the smoking rate was at 45% in the 1970s. As the noble Baroness, Lady Merron, has said, these reductions have been cross-party; Governments of all colours have tried to tackle this issue.

Those reductions are something we should be very proud of but not complacent about. While we celebrate this success, we recognise that there are still 6 million smokers in England, with smoking remaining one of the biggest causes of preventable mortality and, as a number of noble Lords have acknowledged, one of the largest drivers of health disparities. One of the reasons why I am very pleased that we now have the Office for Health Improvement and Disparities is that there will be a laser-like approach in the attempt to tackle these disparities.

[Lord Kamall]

Smoking rates still range from 23.4% in Blackpool to 8% in Richmond upon Thames. In addition, smoking rates vary significantly among certain groups. Nearly one in 10 pregnant women still smoke, increasing the risk of health problems for their babies. The Government are determined to reduce smoking rates in groups that smoke disproportionately, as well as across the board—so, work is going on not just in respect of pregnant women but elsewhere. For example, we know that 23% of routine and manual workers smoke, while the rate among people with long-term mental health conditions is nearly 26%. That is why there is so much to do. We have to make sure that we understand those parts of communities where we can, laser-like, focus our action. That is why the Government have set the bold ambition for England to be smoke free by 2030.

The Government recognise the good intentions behind the Bill. I pay tribute to my noble friend Lord Young of Cookham not only for the Bill but for his long-standing commitment to encouraging smokers to quit. My noble friend himself has told me about his work in the 1970s but also as a Health Minister in the 1980s. Let no one be in any doubt that the Government are clear that we strongly support measures to stop people smoking but also to educate current smokers of its dangers. We have already introduced a number of measures, such as graphic health warnings on tobacco packaging and information on packs giving further advice on how to quit.

While we sympathise with the aims of the Bill, we believe that policy should be evidence-led. It is therefore vital that we conduct further research to build up a strong evidence base to support measures before bringing them forward. To date, sadly, no country has introduced such a measure so there is very little evidence so far on its impact in supporting smokers to quit, compared with other measures we are looking at. Several other measures have been tried in other countries—for example, warnings inside the pack as well as outside—and there are a number of other issues we are examining.

The Government are in the process of developing a new tobacco control plan that will include an even sharper focus on tackling health disparities and will support the Government's levelling-up agenda. We want to explore a broad range of new regulatory measures to support our ambition to be smoke free by 2030. So, I reassure noble Lords that we will be reviewing this proposal as part of that work.

I turn to some of the specific questions that were asked. A number of noble Lords asked about the tobacco control plan. Rather than implementing blanket measures that may not always reach some of the communities that need to be reached, we want to ensure that the plan has an even sharper focus on disparities and that it supports the Government's levelling-up agenda. We need bold but impactful proposals. With the establishment of the Office for Health Improvement and Disparities, we are going to draw on its advice on how to address the high levels of smoking among some of these groups, and harness that advice to develop robust and effective proposals that will ensure that our plan delivers the smoke-free 2030 that this country deserves.

We are developing policy for the tobacco control plan and intend to publish it next year. There is a current tobacco control plan, which runs until 2022. We hope to include a number of measures that focus on health disparities and groups where smoking rates are not falling fast enough. I have already mentioned pregnant smokers and smokers with mental health conditions, but that also includes smokers in many deprived parts of the country.

We were asked about the amendments to the Health and Care Bill. We were grateful for the suggested amendments, which show support for strong tobacco control, but once again we need to see the evidence and make sure that such measures are targeted at groups we want to encourage, as well as more generally. At this stage we do not believe we should accept the amendments but, as I have said, next year we will be publishing our new tobacco control plan, since the current one runs until 2022.

Some of these examples include stop smoking services, which we have found produce high quit rates of 59% after four weeks. Since 2000, they have helped nearly 5 million people to quit. We have also protected a public health grant over the course of the spending review to ensure that local authorities can continue to invest in stop smoking services, because they have been seen to be successful. As long as they are successful, they will continue to be part of our armoury.

The noble Lord, Lord Moylan, asked about evidence. The Office for Health Improvement and Disparities continues to monitor developments in tobacco control across the world. We share our knowledge with international partners and draw on their evidence-led experiences to make sure that we are introducing effective measures, rather than just introducing measures we feel might work without evidence.

The noble Lord, Lord Rennard, talked about youth smoking. He is absolutely right, but youth smoking rates continue to decline, and they are currently at their lowest rate on record. In 2018, 5% of 15-year olds were regular smokers, 2% of 11 to 15 year-olds were regular smokers, and 16% had never smoked. While the youth rates are declining, we should not be complacent. We know that smoking remains an addiction largely taken up in childhood, with the majority of smokers starting as teenagers and then becoming addicted. We want to build on that recent success and protect young people from harmful tobacco, and we have an area of focus targeted at that.

My noble friend Lord Naseby talked about the tobacco levy. We recognise that the tobacco industry is already required to make a contribution to the public finances through tobacco duty, VAT and corporation tax—in many ways, it pays our wages. The department will continue to work with HMT regarding tobacco taxation and revenue funding. This includes reviewing options such as the future levy, but we want to make sure that it is an effective way to raise additional funds to support stop smoking services.

The noble Baroness, Lady Uddin, was very honest in her appraisal of her ability to stop smoking in her family. But she made some interesting points, not only about having failed to prevent her family smoking but about whether young people will read the warnings on

the cigarettes. I think that is a point we have to look at. Will they be dismissed, just as the effectiveness of the warnings on the outside has waned over time? Will the same thing happen here?

Lord Naseby (Con): As I mentioned, I spent 20-odd years in advertising. The Bill says that the warning has to be in red on blank white paper—quite frankly, that will be very difficult to read. If my noble friend is serious about this, I suggest he takes advice from those who know a little more about printing.

Lord Kamall (Con): I thank my noble friend Lord Naseby for that intervention; I will take account of his advice. In fact, I want to thank him for his advice, given the number of years he spent in the advertising industry. Something we are looking at generally in the public health approach in this country are those experts from the advertising industry who have looked at behavioural studies and behavioural economics to encourage people to buy their products or to smoke, and to attract a number of them—as poachers turned gamekeepers—to help us understand the skills they use to attract smokers and people eating high-fat food, and to turn that around to discourage people from taking up smoking and eating food that might cause obesity.

The noble Baroness, Lady Uddin, also talked about smoking in pregnancy, and we recognise this problem. It is sad that 10% of pregnant women still smoke, and they are not falling in line with other groups. Therefore, we are looking at how we address that at prenatal and neonatal clinics, but also during that whole experience. How do we reach those mothers, and would that really be effective?

One of the questions asked was about a number of different ideas that came up. Basically, we want to follow the evidence. That is really important. There is a tobacco plan already in progress, which will end in 2022. Next year, in 2022, we will publish the new tobacco plan, and we are looking at evidence from around the world and at what works. But we also want to see how we can work across government. For example, we are working closely with the Department for Education to ensure that the harms of smoking are in the curriculum, but many of us will remember being at school and receiving education on a number of different issues related to lifestyle. A number of my friends would say, "I'm never going to smoke or drink", and two years later, I would see them at parties, smoking and drinking.

Therefore, we have to understand how effective these messages are, how long they work for, and how we can make sure that they continue to work. We understand and accept that we need to continue to take action; we must not be complacent. We want to look at the evidence: some 64,000 people still die each year from smoking; two-thirds of long-term smokers will die from it; it is one of the greatest drivers of health disparities and, as many noble Lords have said, it causes a great, heavy financial burden. In fact, each year smoking costs society £12.5 billion, with a cost to the NHS of around £2.5 billion. We believe that making smoking obsolete would free up £15 billion per year, benefiting especially the most disadvantaged families and the most deprived communities.

Given the lack of evidence and the other measures being considered, the Government do not feel that the Bill is appropriate at this point in time. However, the Bill's requirements will be considered as part of the wider range of regulatory proposals to support our smoke-free 2030 ambition. We want to see evidence-based, targeted proposals and to make sure that they are effective.

I once again thank my noble friend Lord Young of Cookham for this important debate and encourage him to continue pressing the Government. I also thank noble Lords for their insightful contributions.

1.36 pm

Lord Young of Cookham (Con): My Lords, I thank everyone who has taken part in this debate, starting with the noble Lord, Lord Rennard, whose long-standing commitment to the campaign to reduce the harm done by smoking is well known; he also underlined the all-party commitment. He trailed the broader package of a suite of measures as part of the APPG manifesto published earlier this year, of which this is one component. We look forward to taking that agenda forward on the forthcoming Bill.

My noble friend Lord Naseby and I have been on opposite sides of this debate ever since we both joined the House of Commons on the same day in 1974. I was reading last night a contribution that he made in May 1980, much of which he repeated today, showing consistency. I say to my noble friend that much of his speech was not about the Bill but about raising the age limit, the licensing regime, a potential levy and a tax on profits. I understand that. He described the promoters of the Bill as misguided. I wonder whether he would like to reflect on that, given the wide range of health organisations that I mentioned—for example, the Royal College of Physicians and Cancer Research UK—and whether he also believes that they are misguided in supporting the Bill.

Lord Naseby (Con): The misguided bit is that the promoters of the Bill have not taken any advice on communication. It is quite clear to me, as one who has been a professional in that world, that to place a communication, as my noble friend suggested, on a narrow cigarette that is burning away, in red on a white background, is not good communication.

Lord Young of Cookham (Con): I will come to that specific point, but he described the promoters of the Bill as misguided and I was making the point that he includes among those misguided people a very wide range of serious health opinion. As I said, I will come to his point.

The noble Baroness, Lady Uddin, put the Bill in personal terms. I am grateful for her contribution. She made the point that we need to move on from the health information on packs, which is now taken for granted, to a new means. On my noble friend's point, he raised the question of whether it would be easy to read. A cigarette is right under your nose so it is probably easier to read what is on the cigarette than what is on the pack. Also, the pack is not seen by other people, whereas, if you put a message on the cigarette, those in the company of the smokers will also see it. I see that as an added advantage of this move.

[Lord Young of Cookham]

I listened with some disbelief to my noble friend Lord Moylan. He started off by saying that he was surprised that I had introduced this Bill in the middle of a pandemic, implying that I should wait until the pandemic is over before introducing what I think would be a very useful health measure. Astonishingly, he described the message that I want to put on the cigarettes—"Smoking kills"—as propaganda. Even the tobacco manufacturers now admit that smoking is bad for your health. I just wonder whether my noble friend has ever read the 1962 report of the Royal College of Physicians—the whole weight of evidence. The health warning that smoking kills, and damages your health, is not propaganda but accepted health fact. He should move on.

My noble friend then described the 2030 target for a smoke-free England as ASH's target, but it is not; it is a government target to which the Government have committed—I look to my noble friend on the Front Bench. Finally, my noble friend Lord Moylan described what I am doing as patronising. There is the libertarian wing within my party, of which he is clearly a member. I have listened to these arguments about things being patronising for the last 30 or 40 years. When there was a proposal to introduce compulsory crash helmets for motorcyclists, that was described as patronising. Parliament legislated and I do not think there is any question of repealing that. I heard exactly the same argument about seatbelts for drivers and then passengers; people said that was patronising legislation. I heard it about banning sponsorship for sporting events and banning smoking on public transport and then in public places. I am sure I will hear it again during the passage of the Health and Care Bill, which has a provision for adding fluoride to water.

Every single one of those measures has been adopted by Parliament, and I do not think anybody would seriously suggest that any of them should be repealed. In due course, measures such as the one I am promoting today will be accepted as conventional wisdom. I hope that, in a few years' time, my noble friend will accept that this is the direction in which public opinion is moving. As I pointed out, this is a popular measure; it is popular within my party. I am glad I have got that off my chest.

I am very grateful to the noble Baroness, Lady Merron, for her support and her predicted support for the other measures that I and other noble Lords will introduce as amendments to the Health and Care Bill, which gets its Second Reading on Tuesday. That is much appreciated, as is her own record as a Minister in the Labour Government.

Finally, I am grateful to my noble friend the Minister, whose personal commitment to reducing the damage done by smoking shone through his speech. He put the Bill in the slightly broader context of government policy and recognised the imperative to drive down smoking. He said he had strong support for measures to stop people smoking. I will pick up one or two points from his speech for which I am very grateful. He said that the tobacco control plan would be published next year. "Next year" spans several months, so I wonder whether he could at some point be a little more specific about the timing of this plan, for which we have been waiting for some time, rather than referring just to 2022. He made the point that everyone is waiting for robust evidence. If everybody waits for robust evidence, no one will provide it, so at some point a country has to go first. I was grateful that he said that while he was unable to support this measure at the moment, he would consider it as part of the suite of measures to be looked at as part of the tobacco control plan. I accept what he says. That about sums up everything.

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

Education (Environment and Sustainable Citizenship) Bill [HL]

Committee

1.44 pm

Clause 1: Curriculum requirements regarding citizenship and the natural environment

Amendment 1

Moved by ***Lord Blencathra***

1: Clause 1, page 1, line 17, after "must" insert "by regulations"

Lord Blencathra (Con): My Lords, I rise to move the little amendment in my name and, since the noble Lord, Lord Knight of Weymouth, has also signed up to it, I can cut my speech down from one hour to no more than 45 minutes. I hope that I will not be too patronising in delivering it. This is a simple amendment. Clause 1(4) of the Bill—which I support—as it stands at the moment, states:

"The Secretary of State must give guidance about the provision of education".

After "must", I wish to insert the words "by regulations" —because, if one looks slightly further on, the proposed subsection (3) in Clause 1(4) says:

"The governing body of a maintained secondary school must have regard to guidance under this section."

I am moving this amendment in a private capacity but—for the next couple of weeks, in any case—I am the chair of the Delegated Powers Committee, which looked at the Bill, as it looks at all Private Members' Bills. We do not change our guidance for private Members any more than we do for the Government. When we look at Bills, our normal rule is that, where guidance is advisory, we suggest that it should be laid before Parliament but does not have to be debated—it does not need the negative or the affirmative procedure. But when it is guidance that one "must have regard to"—as we increasingly see from government these days—we say that, in effect, it is almost mandatory, and there are legal consequences for the person or body if they do not have regard to it.

In our report, we say:

"Although a duty to have regard to statutory guidance does not imply a duty to follow it in … all respects, we have in recent years observed that a person or body required by statute to have regard to guidance will normally be expected to follow it and will in practice normally do so unless there are cogent reasons for not doing so. And yet this guidance is subject to no parliamentary scrutiny at all."

We are therefore suggesting that the Secretary of State makes the guidance by way of regulations that are subject to the negative procedure. That is not a heavy burden on the Secretary of State or the department. As we know, most negative-procedure SIs go through on the nod; they are very seldom debated or prayed against. I cannot imagine any side of the House wishing to pray against guidance in this regard, but the power exists there, if the House wishes to exercise it in certain circumstances.

I will give noble Lords one more minute of technical stuff. How would this actually take effect, when I am only inserting the words "by regulations"? I am advised by our lawyers that the guidance would in fact be covered by Section 210 of the Education Act 2002, which provides that:

"Subject to subsections (5) and (6), a statutory instrument which contains any order or regulations made under this Act by the Secretary of State and is not subject to the requirement … that a draft of the instrument be laid before and approved by a resolution of each House … is subject to annulment in pursuance of a resolution of either House of Parliament."

Merely putting in the words "by regulations" would mean that any guidance that the Secretary of State produces on this measure in future would be caught by that provision and subject to the negative procedure. In essence, that is it.

I am very grateful to the noble Lord, Lord Knight of Weymouth, for signing up to the amendment. I do not think that we will have a highly contentious debate for the rest of the afternoon.

Lord Knight of Weymouth (Lab): My Lords, although it is my Bill, I thought that I could probably take advantage of Committee and speak twice. But I take this advantage to outline why I am in support of the noble Lord, Lord Blencathra, in his very helpful amendment. When I put together the original wording, I stole it from the Act that he quoted, and I perhaps could have paid more close attention to Parliament's role. I am very grateful to the Delegated Powers Committee for its report and consideration.

The noble Lord was kind enough to send me an email on Wednesday. When I received it, it was with a little trepidation as to what he might have to say about how he would proceed today. It was of huge reassurance when he said that his amendment is not a re-emergence of the old Eric Forth and David Maclean "wreck a Private Member's Bill on a Friday" scenario. I am grateful for the noble Lord's support for the Bill and for the way in which he has gone about this.

One reason for wanting to speak early in the discussion of this amendment is to have an opportunity to ask the Minister a couple of things for her to consider in her response. I think the noble Lord, Lord Blencathra, agrees that there is sometimes a danger of it feeling as though the Department for Education, because it makes a lot of regulations, is reluctant to go down the road of guidance being in the regulatory form. My question to the Minister is: is there a good reason why we should not have this sort of guidance in regulation, as opposed to a good reason why, because it is important?

This is also an opportunity for me to ask the Minister whether the announcement made by the Secretary of State on 5 November, in the context of COP 26 in Glasgow, changes the Government's position as we heard it at Second Reading. We had a different set of Ministers then and a slightly different situation. The Secretary of State made his announcement in the foreword to the document that he has then consulted upon. He said:

"Education is critical to fighting climate change. We have both the responsibility and privilege of educating and preparing young people for a changing world—ensuring they are equipped with the right knowledge, understanding and skills to meet their biggest challenge head on."

It was almost as if he had been listening to the Second Reading debate. I was so encouraged to read the consultation document and hear what he had to say, and to see that there is an emphasis on climate education, green skills, the education estate and the supply chain. Indeed, I loved the idea of the national education nature park and the climate leaders awards, which are part of what Secretary of State is proposing.

Can we push the department that little bit further on the climate education side of things, so that we get this guidance and ensure that there is more than just a voluntary approach from our schools to delivering climate and sustainability education, which is what the Bill would do? Also recently—I think it was last week or the week before—we had Nadia Whittome introducing her own Private Member's Bill on this subject. The subject is not going to go away, so I strongly encourage the new ministerial team to give it their own encouragement. It might not be now; I would be really delighted to meet the Minister to discuss whether we can do anything with this Bill to get it into the national curriculum. However, I want to hear from her whether there has been any slight shift in her position.

Baroness Blower (Lab): My Lords, this is a short, precise and extremely welcome Bill, improved by the helpful amendment presented today. I am pleased to tell noble Lords that the National Education Union—the largest education union in Europe, with 450,000 members—welcomes the Bill and the amendment.

The climate emergency is of course the existential threat to the future of all our children and young people. It is certainly the case that educators have a role to play in helping children address the threat by enabling them, as was said at Second Reading, to understand the climate emergency and ecological issues, and to think critically about how they can play their part as we seek a more sustainable way of life.

To demonstrate enthusiasm for teaching about the climate emergency and sustainability, the National Education Union worked with other organisations, including Teach the Future, to promote Climate Learning Month, which overlaps October and November, ahead of COP 26. Despite the high-quality resources produced, not all schools, and therefore not all children and young people, accessed them.

The Bill, particularly with the amendment, would ensure that all those educated in maintained schools would have access to this important area of learning. Alas, those educated in academies and free schools are not required to follow the national curriculum. However, Robin Walker, the Schools Minister, speaking on this in another place, said that

"I want us to do more to educate our children about the costs of environmental degradation and what we are doing to solve that, both now and in the future. Not only do our children deserve to

[Baroness Blower]

inherit a healthy world, but they also need to be educated so that they are … prepared to live in a world affected by climate change, so that they may live sustainably and continue to fight the effects of climate change."—[*Official Report*, Commons, 27/10/21; col. 146WH.]

I therefore hope that Her Majesty's Government will not only support the Bill but press upon all schools the benefit of this aspect of learning. Of course, I hope that the Government will will the means to ensure that educators are themselves properly educated and trained to ensure high-quality teaching on this important issue.

Finally, it is the case that climate and sustainability issues are covered in the current curriculum—as has been said, they are covered in science and geography—but the magnitude of the climate emergency requires the holistic approach to content and skills development outlined in my noble friend Lord Knight's Bill. The brevity of this speech should not be taken to imply anything less than my wholehearted support for the Bill and this amendment.

Baroness Jones of Moulsecoomb (GP): It seems almost superfluous to get up to support this Private Member's Bill because it is so self-evident that it is excellent. I congratulate the noble Lord, Lord Knight of Weymouth, on the progress it has made. Quite simply, you can care for something only when you understand it. That is true about caring for ourselves, for each other and for the natural environment. It is especially true for what can feel like an abstract concept: caring for future generations. The Bill will help tackle not only the environmental and ecological crises but the humanitarian and mental health crises.

Our Green MP, Caroline Lucas, has done great work promoting a nature GCSE and my noble friend Lady Bennett has called for a right to nature for children. Together with this Bill and the future generations Bill of the noble Lord, Lord Bird, we begin to see a framework for the cultural and educational shift needed to underpin an ecologically minded society that no longer destroys our living world.

It would be very wrong for your Lordships not to pay recognition to the very many young people demanding action on the ecological and climate emergencies. As well as teaching them, we must learn from them and support them to use all that energy and enthusiasm to make lasting change, because it is their future that we are discussing. They will live to be the judges of our collective action or inaction.

Lord Adonis (Lab): My Lords, this is one of those debates where we are all violently agreeing with each other and with the amendment from the noble Lord, Lord Blencathra. I wish the Government were always as responsive to his committee's forensic examination of the problems of delegated legislation as my noble friend Lord Knight has been this afternoon.

I do not think there is any concern at all on the substance of my noble friend's Bill and the amendment, but I looked at the Bill because I have a Private Member's Bill coming up on a related matter in the new year on votes at 16 and reducing the voting age. Alongside that, which I see as a critical element of lowering the voting age, is significantly enhancing citizenship education in schools. My view is that part of the reason why we have such a massive crisis of youth engagement in politics, including on the issues my noble friend refers to in the Bill, is because we do not take citizenship sufficiently seriously in schools. We do not have automatic registration of young people at 18, or polling stations in every school, educational institution and university, as we should have.

2 pm

I looked at the Bill to see how it would interact with enhanced requirements in respect of citizenship education in schools. My noble friend and I go back a long way on this, because we were fellow Ministers in the education department under the Government who introduced citizenship education under the leadership of my noble friend Lord Blunkett. There is a clear anomaly in the Bill in how it will amend education law. Because of my noble friend's zeal in promoting citizenship education in respect of the natural environment, which I strongly support, the natural environment and sustainability, if the Bill is passed, become singled out in statute for special mention—indeed, unique mention—in respect of citizenship education, but none of the other aspects of citizenship education is then mentioned in statute at all, when they are surely just as important as citizenship education in respect of sustainability. Indeed, they are integrally linked—unless young people learn at school to be active citizens and to use the democratic process fully to advance the causes in which they believe and on which their generation depends, they will not embrace the cause of the environment as part of that.

Because this is of some importance to how our education law develops, I want to get a bit technical for a moment or two if my noble friend will forgive me. I want all this on the record because we may need to come back to it in due course. My noble friend's Bill essentially amends Sections 80, 84 and 85 of the Education Act 2002. Perhaps I may go through the changes that it makes to each of those sections in turn. To Section 80, which covers the fundamental requirements of the national curriculum and teaching in schools, my noble friend proposes to add a new subsection (1)(f)—I should say, as amended by the noble Lord, Lord Blencathra, if it goes through—requiring

"provision for sustainable citizenship education for all registered pupils who are provided with secondary education".

That section, Section 80, makes no reference to citizenship education in any respect other than sustainability and the environment. There is no reference to any requirement to teach citizenship in schools. This relates directly to the point made by my noble friend Lady Blower—I am sorry, this is educationalists speaking here—because Section 80 of the 2002 Act is the fundamental requirement apart from the national curriculum, which, as my noble friend said, does not apply to all schools. Under Section 80 as amended by this Bill, it would be a statutory requirement in all schools to teach about citizenship relating to sustainability but not citizenship relating to any other issue, including the voting process, the operation of your Lordships' House and how one becomes involved in political parties—all of which are about to become significantly more important because another piece of legislation going through Parliament at the moment will require voter ID and therefore much greater activity on the part of young people to become voters in the first place.

Section 80 becomes very curious under this Bill. It introduces a statutory requirement which relates to certain items, of which the only one in respect of citizenship is sustainable citizenship education. Sections 84 and 85 stipulate the subjects that must be covered in the national curriculum. I add again that that applies only to some state schools; it does not apply to all state schools at the moment. The requirements in those sections in respect of sustainable citizenship and the natural world, as amended by this Bill, become very detailed. My noble friend's amendment to Section 84, which relates to the key stage 3 curriculum, provides that

"'citizenship' includes programmes of study that encourage learning to protect and restore the natural environment for present and future generations, including but not limited to climate change considerations".

I support all that. However, there are no words in that section relating to any other aspect of citizenship. The only other reference to citizenship is the word "citizenship", in relation to the third key stage, where it lists the subjects that must be taught, one of them being citizenship. So we will have in statute an elaborate requirement in respect of the teaching of citizenship for the natural environment, but no requirement in respect of the teaching of citizenship elsewhere.

Exactly the same happens in Section 85, which relates to key stage four, the period leading up to GCSE. My noble friend's Bill introduces a new subsection (11), which says that citizenship in key stage four must include

"programmes of study that encourage learning to protect and restore the natural environment for present and future generations, including but not limited to climate change considerations."

Again, there is no requirement to teach any other aspect of citizenship.

The obvious response to this is twofold. First, we should have similar requirements elsewhere. Indeed, I would willingly participate in an exercise that drafted the citizenship requirements for the wider citizenship curriculum, which I think are every bit as important as the requirement here. Secondly, in respect of schools that follow the national curriculum, it does have citizenship as a subject. However, the status of citizenship under the national curriculum is very precarious. Noble Lords who remember the 2013 national curriculum review will know that whether citizenship was going to be removed was a big issue. It is all done under delegated legislation such as that proposed by the noble Lord, Lord Blencathra. By order, the Government can remove it. They have to have a thing called citizenship, but they can remove almost all of the programmes of study.

Indeed, not only was there a big debate about, in effect, removing citizenship entirely in 2013, but the Government substantially stripped it out of the curriculum in practice. They did three things: they stopped providing support for the recruitment of citizenship teachers; they ended the half-GCSE in citizenship, which had been a requirement of key stage four; and the then Secretary of State, Mr Michael Gove, who claims in other respects to be a great promoter of participatory democracy, taking back control and so on, said that he thought it was a very secondary subject and should not be given the importance of what he regarded as the core subjects in the curriculum. Indeed, the other curriculum reforms that the Government made prioritised a set of academic subjects above all others.

The point I am making, which I think is of some significance to education law and the future of the curriculum, is that we need to have a holistic view of citizenship education which absolutely embraces the environment, climate change and the natural world. But we must also give equal treatment and importance to citizenship education in respect of democracy and the participation of young people in the public life of this country. There is an epidemic of inactivity when it comes to young people and our democratic processes. We have very low levels of voting; the level for 18 to 24 year-olds is half that for the over-60s. The evidence is that people's propensity to vote in their first election after they turn 18 determines more than anything else whether they vote in elections thereafter. We have tiny numbers who belong to political parties and we have very low levels of engagement.

I welcome the Bill. It is greatly improved by the amendment moved by the noble Lord, Lord Blencathra, but we need to set it in the context of the wider requirement significantly to enhance citizenship education in our schools. On that front, I am afraid that, because of inactivity on the part of the Government, we are moving backwards rather than forwards.

Lord Watson of Invergowrie (Lab): My Lords, I fully support the amendment in the name of the noble Lord, Lord Blencathra, as it would strengthen my noble friend Lord Knight's Bill. Since this excellent and necessary Bill had its Second Reading in July, we have had the COP 26 summit in Glasgow, a city that I was privileged to represent in two legislatures. If the campaign to combat climate change and build a sustainable environment has moved forward as a result of COP 26, it has done so only to a very limited extent. The agreement was ultimately disappointing, with loopholes that can be exploited and the appalling 11th-hour attempt by China and India to sabotage the entire event.

Every time I speak in one of these debates, when my noble friend Lord Adonis also speaks, I am reminded that, no matter however much I think I know about education legislation, or certainly recent legislation, I still have much to learn. In his speech, my noble friend recalled, perhaps with some nostalgia, the time that he spent in government together with my noble friend Lord Knight, when our noble friend Lord Blunkett was the Education Minister. Noble Lords may recall that, at Second Reading, my noble friend Lord Blunkett talked about the time when he introduced the order to include the teaching of citizenship. He made the point that,

"while it has been extremely successful in some schools, it has hardly been taught in others".—[*Official Report*, 16/7/2021; col. 2129.]

That is the nub of the problem that the amendment proposed by the noble Lord, Lord Blencathra, deals with, because it would prevent it being taught in the curriculum as an option that schools can opt in to or out of.

The fact that COP 26 has taken place since we last considered this Bill has heightened the arguments for including sustainable education within the national curriculum. The role of young people, if it was in doubt, was thrown sharply into focus at some events around COP 26, which were inspirational to many. I certainly

[Lord Watson of Invergowrie]
found it inspirational to watch the Fridays for the Future protest in Glasgow on 5 November, which gathered thousands of young people, many of them schoolchildren. Many Scottish local authorities had made it clear that, providing that parents informed schools of their children's absence, no action would be taken against them for being on the protest. I have to say, it is hard to imagine such an enlightened approach being taken by DfE Ministers, but that in a microcosm highlights the widely different attitude to ensuring that children are fully absorbed in the detail of the need for action to combat climate change between the different parts of Britain. That was highlighted at Second Reading in reference to the situation in Wales and Scotland.

In July, officials from the DfE gave evidence to the Environment and Climate Change Committee of your Lordships' House, suggesting that the Government would be establishing England as a trailblazer on climate education. This Government seem to enjoy blazing trails, especially in the DfE. At the moment we have, inter alia, trailblazers on T-levels and trailblazers on the new local skills improvement plans. Can the Minister say what her department has done since July to take forward that trailblazing pledge? They have dropped the ball in terms of this Bill, which would have been a perfect means of helping to meet their pledge.

We know, as I have said, that the lead in enshrining sustainability in the curriculum has been taken by the Scottish and Welsh Governments. It is of course instructive that neither of those legislatures is under Conservative control because, if that were the case, children in those countries would be denied the right to learn meaningfully about sustainable citizenship in the way that their English counterparts currently do. However, my noble friend's Bill offers a way forward that will essentially mean that there is a common approach across Britain, and it is much to be regretted that, as I suspect, the Minister in her reply will repeat the line taken by her predecessor in July—although, of course, I shall be happy to be proved wrong in that assertion.

At Second Reading, most noble Lords acknowledged that England must do better on climate and sustainability education. COP 26 has reinforced the fact that young people, including school students, are fully committed to bringing about a more sustainable future for their own and their children's generations. So will the Minister offer them hope that teaching in our schools will more meaningfully support that aim and will be guaranteed in doing so by regulations through this amendment?

The Parliamentary Under-Secretary of State, Department for Education (Baroness Barran) (Con): My Lords, I thank my noble friend Lord Blencathra for highlighting the importance of parliamentary scrutiny. The Government agree that guidance should not be used as a means to circumvent scrutiny and should be used only where it is proportionate to do so. As my noble friend understands—probably better than anyone else in this Committee—the purpose of guidance is to aid policy implementation by supplementing legal rules. If a policy is to create rules that must be followed, the Government accept that this should be achieved using regulations subject to parliamentary scrutiny, not guidance.

2.15 pm

I will quote from my noble friend Lady Berridge's response in April to my noble friend Lord Blencathra on the same point, talking about the standard legal wording of having regard to the guidance. She said:

> "The crux of this phrasing is that schools must have a good reason if they wish to depart from this guidance and they cannot choose to ignore it."—[*Official Report*, 16/4/21; col. 1619.]

The Committee will be aware that a vast range of statutory guidance is issued each year, including in the education sector. It is important that this guidance can be updated rapidly to keep pace with events and is fully accurate and responsive to feedback from the sector. I hope that responds in part to the invitation from the noble Lord, Lord Knight of Weymouth, to present a good reason for using guidance.

The need for this makes it disproportionate for the majority of statutory guidance to be subject to parliamentary procedure, although in exceptional circumstances it might be appropriate. There is nothing to prevent Parliament scrutinising guidance at any time, and Members of both Houses have various avenues available to them to apply for debates and ask questions. As I know the noble Lord, Lord Watson, remembers, last month this House debated the 2021 School Admissions Code following my noble friend Lord Lucas tabling a take-note Motion to do so.

I turn to the substance of the Bill and the points raised in particular by the noble Lord, Lord Knight of Weymouth. I thank him for the warm welcome he gave to the Secretary of State's announcements just ahead of COP 26. As the noble Lord set out, the Secretary of State announced a draft sustainability and climate change strategy at COP 26. This is a whole-systems approach that sets out our commitment to increase training and support for schoolteachers—a point that the noble Baroness, Lady Blower, raised—including a primary science model curriculum that will have a focus on nature, science CPD, free access to high-quality resources and sharing best practice.

The strategy also includes key initiatives such as the climate leaders award and our virtual national education park. To the point from the noble Baroness, Lady Jones of Moulsecoomb, I hope this will give young people understanding, real hands-on experiences and a chance to develop the skills that will allow them to be active voices in this debate.

The noble Lord, Lord Knight, asked whether there was any more—I apologise for not noting the word—nudge, enthusiasm or momentum in this. There is a lot of momentum. The noble Lord will know from the schools he is connected to, and I certainly see on almost every visit I make, that children are very exercised about these issues and are proactively raising them. I have touched on the department's work, but the other critical thing that we cannot underestimate is the pull from employers for the skills that will be required for the sustainable economy of the future.

The noble Lord, Lord Adonis, rightly raised important issues of citizenship education. I will not attempt to address all his technical points, as I am with the noble Lord, Lord Watson, on his superior knowledge of education legislation. But we expect schools to use their expertise and understanding of their pupil cohort

to develop the right approach towards citizenship education for their particular school. Active citizenship, which I know the noble Lord, Lord Adonis, supports, is at the heart of the programme. At key stage 4 in particular, pupils should be taught about parliamentary democracy and key elements of the constitution. I thank all noble Lords for their contributions today.

Lord Blencathra (Con): My Lords, I am grateful to all noble Lords who took part in this short debate. I must admit I felt a bit guilty, in that the Bill was due to go through on the nod a week last Monday and, when I put down the amendment, I knew it would kick it back to a Friday. I was worried then that the Bill would fall altogether, but I am grateful for this chance to have a discussion today. Although it has ranged slightly wider than I had anticipated, there is no harm in that. I thank the noble Lord, Lord Knight of Weymouth, for his support and all noble Lords who mentioned COP 26. When I put on my face mask today, which I acquired when I was in Glasgow a couple of weeks ago, I had no idea that COP 26 would be so relevant to today's debate.

I also thank the noble Lord and the Minister for mentioning the Department for Education's attitude to guidance. I am grateful for some of the things that she said, but some things the department had been doing before her time, in the way it issued guidance and the attitude it took to laying it before Parliament, were contrary to what she informed of us today. I am referring to the school uniform guidance. I moved an amendment saying that it should be laid before the House as a negative procedure, as regulations. The answer from the department—I paraphrase slightly and I hope I am not exaggerating for effect too much—was, "No, we are not going to bother you with that. We issue thousands of pages of guidance each year, and we have always got away with not laying it before Parliament; why would we create a precedent now of troubling your little heads in Parliament with this guidance?" The second excuse was "A lot of our guidance changes very regularly and we cannot trouble Parliament with it". The school uniform guidance is unlikely to change regularly and it is unlikely that this guidance will change regularly. The same argument applies: it should be laid before Parliament in the negative procedure. Even if it does change regularly, the department has to write the guidance. There is no problem in laying that guidance as a regulation through the negative procedure. Hardly anyone would object to it 99.9% of the time.

Going slightly off piste, like the noble Lord, Lord Adonis, the final thing I have to say is that my amendment to this Bill was small and I am grateful that everyone agrees with it. Next Tuesday, the House will be looking at the Health and Care Bill. In my three years as chair of the Delegated Powers and Regulatory Reform Committee—my committee has not looked at it officially yet—I have never seen a Bill with such appalling delegations of power. There are about 150 delegations. It is a skeletal Bill, with no guts or detail to it. There is disguised legislation, where regulations are called guidance, protocols or directions—anything to avoid them coming before Parliament. I hope noble Lords participating in that Bill, irrespective of its other merits, look at all the delegated powers in it and give them proper consideration. In thanking noble Lords for their contributions, I am delighted that my amendment finds favour with the Committee.

Amendment 1 agreed.

Clause 1, as amended, agreed.

Clause 2 agreed.

House resumed.

Bill reported with an amendment.

House adjourned at 2.25 pm.