Vol. 816
No. 88

Wednesday
8 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/2021-12-08

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

Wednesday 8 December 2021

3 pm

Prayers—read by the Lord Bishop of Carlisle.

Death of a Former Member: Lord Denham

Announcement

3.07 pm

The Lord Speaker (Lord McFall of Alcluith): My Lords, I regret to inform the House of the death of the noble Lord, Lord Denham, on 1 December. On behalf of the House, I extend our condolences to the noble Lord's family and friends.

UK Community Renewal Fund

Question

3.08 pm

Asked by ***Baroness Garden of Frognal***

To ask Her Majesty's Government what were the criteria for allocating money from the UK Community Renewal Fund; and what assessment they have made of the analysis by the Centre for Inequality and Levelling Up at the University of West London, published on 4 November, which found that 21 per cent of the funding went to areas in the bottom 20 per cent of the Index of Multiple Deprivation, and that two-thirds of the funding went to areas in the top half of that Index.

The Minister of State, Home Office and Department for Levelling Up, Housing & Communities (Lord Greenhalgh) (Con): The Government have confirmed that applications to the UK community renewal fund were assessed against the criteria set out in the prospectus and the assessment criteria published on GOV.UK. The analysis conducted by the University of West London used indices of multiple deprivation as an indicator for priority. Indices of multiple deprivation were not used for prioritising places under the UK community renewal fund. Instead, an index of economic resilience was used across Great Britain in identifying the 100 priority places. The prioritisation of place methodology and model has been published on GOV.UK. The analysis for Great Britain showed that 77%, or £146,198,866, of funding was allocated to a priority place.

Baroness Garden of Frognal (LD): I apologise for the length of the Question, but I am not entirely sure that I am happy with the Minister's Answer. Surely this fund is flawed and something of a sham. The money should be going to areas with high levels of deprivation, but places such as Knowsley in Merseyside, Sandwell, Middlesbrough and Hyndburn have received no moneys at all from this fund. How can the Minister ensure that they are not further disadvantaged when they bid for the UK shared prosperity fund in 2022? Will that have different indices as well?

Lord Greenhalgh (Con): The sham is the analysis conducted by the University of West London. I have lived in west London all my life and I have never heard of the University of West London. Its error-strewn report has made this into something, but it contains error after error and there is no basis on which its analysis has any merit whatsoever.

Baroness Redfern (Con): My Lords, the Government have stated that they will ensure that the UK community renewal fund reaches those most in need. In applying checks and balances to that funding, when must that money be spent and how will it contribute towards the Government's ambition to preserve and enhance the union?

Lord Greenhalgh (Con): With regard to union, it was very clear that we wanted to fund all four nations. That criterion was set from the outset. In addition, we wanted to raise all boats and strengthen the economic resilience of particular areas, which were banded A, B and C. I have been through this methodology and found it to be robust. What is more, the previous Secretary of State published the methodology and the current Secretary of State published the model. What more transparency could you ask for?

Baroness Hayman of Ullock (Lab): The Minister may well think little of the analysis of the Centre for Inequality and Levelling Up, but surely he thinks it important that the most deserving communities get the support that they need for levelling up. The Centre for Inequality and Levelling Up also asks for close monitoring of who is benefiting from the current tranche of bids. What monitoring arrangements have the Government put in place to ensure that the right communities get the funding that they deserve?

Lord Greenhalgh (Con): As a local authority leader for some of the most deprived parts of the country, I used to look at the index of multiple deprivation very carefully. The borough that I led for six years had some of the most deprived communities, so I understand that, but the purpose of this fund was not to identify those most deprived communities. It focused on what was going to lift economies and therefore provide job opportunities and enable us to thrive us a nation. That was its purpose.

Lord Bird (CB): My Lords, while we are talking about levelling up, is it possible to include the 500,000 people who are behind in their rent and may well be levelling down? We have spoken about this together and the Government have not yet come up with a solution for people who are behind in their rent or mortgage.

Lord Greenhalgh (Con): The noble Lord is a champion and a crusader on this, and quite rightly. This is something that we take seriously and have taken particularly seriously during this pandemic, so that we can provide support for people and do not create the rough sleeping and homeless crises of the future. We will continue to work with the noble Lord to come up with practical measures to ensure that we deliver our ambition to end rough sleeping.

Lord Watts (Lab): My Lords, is the Minister saying that there is nothing that the Government and this fund can do to help councils and areas such as Knowsley to level up?

Lord Greenhalgh (Con): Of course I am not saying that. I am saying that there is a methodology and approach and that they are transparent. We have funded those bids according to that methodology. There is nothing controversial about that; there is nothing to see here.

Baroness Humphreys (LD): My Lords, in Wales, additional funding has long been allocated to support communities that are struggling with high levels of poverty and deprivation. Could the noble Lord explain what criteria are being used, as over 60% of so-called levelling-up funding in Wales is being allocated to the 35% of constituencies that are Conservative held? Is this not another case of the UK Government funnelling money into their own back yards?

Lord Greenhalgh (Con): I know that is why the question has been asked, but it is simply not the case. Levelling up is around infrastructure—digital infrastructure, heavy infrastructure, transportation systems and the things that will bind this country together. I have a briefing today about the community renewal fund, which is the precursor to the UK shared prosperity fund. This is not about the politics you saw in Tammany Hall in New York; this is sensible stuff that aims to level up this country.

Lord Flight (Con): My Lords, who administers the community renewal fund and how is it financed?

Lord Greenhalgh (Con): The UK community renewal fund will ultimately be financed by the taxpayer, although it is the successor to the EU structural funds. It is important to test things out with the community renewal fund, so that we get it right when we introduce the shared prosperity fund, which will be worth over £2.6 billion over the next three years.

The Earl of Clancarty (CB): My Lords, I worry that the Government are not addressing what community renewal means in its wider, profounder sense. This funding, welcome as it is to those who receive it, is taking place against the reality of councils, particularly in deprived areas, that are so starved of money that they are contemplating selling off important community assets such as theatres and children's centres. Will the Government look more carefully at the meaning of community, rather than seeing it solely as new build and private enterprise?

Lord Greenhalgh (Con): I should probably declare my commercial interests before I answer the question. The reality is that local government has had a pretty generous settlement. The core spending power has increased.

Noble Lords: Oh!

Lord Greenhalgh (Con): Well, given the state of the national finances, increasing the core spending power to the degree that we have shows a real commitment to local government. I point out that this particular fund is all around the skills and what it takes to increase the economic output of an area. The levelling-up fund is another fund that is focused on the more capital-intensive digital and road and rail infrastructure.

Baroness Neville-Rolfe (Con): Does my noble friend agree that the best way to achieve levelling up is by economic growth and higher productivity, helped by good local authorities? I agree with my noble friend that the rising tide raises all boats. We should be seeking to make that a reality in these difficult times.

Lord Greenhalgh (Con): The reality is that we need local leadership. We need the vision in local places. We need to understand why a place should be competitive and then, with that local leadership, backed up by taxpayer pump-priming, turn places around. We have too few local leaders who have clear vision at the moment. There are some examples: we are seeing the success of our mayors, and we have to back them to ensure that the whole country rises. But the rhetoric about lifting all boats is precisely right.

Lord Bassam of Brighton (Lab): My Lords, the noble Lord has made a good case for the community renewal fund, but is it not the case that the allocations were delayed from July to October? Will that mean that the application and monitoring of those funds will take a longer period? If not, the funds will be wasted. Levelling up is far too important to be bungled by this Government.

Lord Greenhalgh (Con): There is always delay. I have been a Minister for 18 months now: I am not used Whitehall, but I have seen many things delayed and that is not always as a result of direct ministerial influence. Things just take time. We have been through a global pandemic and, yes, this will probably delay things, but the commitment is there—there is clarity—and this is not a case of double-dealing or dodginess—

Noble Lords: Oh!

Lord Greenhalgh (Con): No, it is not—absolutely not. A clear methodology has been set out. It will benefit all the regions of the UK pretty much in equal part.

Lord Wallace of Saltaire (LD): My Lords, can the Minister tell me how many different pots there are for levelling up for councils to bid for? I was told that there are now over 100. If so, do councils have to spend money trying to fulfil different sets of criteria for each one?

Lord Greenhalgh (Con): I have some sympathy with the noble Lord's first question: there are probably too many funding pots. We are doing our best to narrow those down as we move towards the levelling-up fund for capital and the UK shared prosperity fund. We do not want local authorities to become grant farmers. We want them to focus on the vision for their place and then to apply for a limited number of pots. It is

appropriate to have deals as well, on the other side, but, in terms of central pots, we are broadly going down to two main ones.

Covid-19: National Memorial

Question

3.18 pm

Asked by ***Lord Selkirk of Douglas***

To ask Her Majesty's Government what progress they have made towards the creation of a permanent national memorial to those who lost their lives as a result of the COVID-19 pandemic and to those who risked their lives to save a great many others.

The Minister of State, Cabinet Office (Lord True) (Con): My Lords, while the Government's focus is on protecting lives, there is none the less the need to come together as a nation to mourn those who have sadly died during the Covid-19 pandemic. The Prime Minister announced the establishment of a UK commission on Covid commemoration to consider how to remember those whom we have lost and to commemorate what we have all been through. We will set out the membership of the commission and the terms of reference in due course.

Lord Selkirk of Douglas (Con): I thank the Minister very much for his reply. Does he agree that, when it comes to creating a national memorial in due course, it will be possible to commemorate the courageous actions during the pandemic of doctors, nurses, medical staff, specialists and members of the emergency services and the Armed Forces, all of whom risked their lives in order to save the lives of a great many others?

Lord True (Con): I strongly agree with my noble friend. Already, of course, in a striking gesture, Her Majesty the Queen awarded the George Cross to the National Health Service across all parts of the United Kingdom. However, as my noble friend asked, the commission will also consider how we can remember the courage of countless working people and volunteers, not just in the NHS but the Armed Forces, delivery drivers, transport staff, pharmacists and teachers—it is invidious to name just some of them; they are legion —who have put themselves out to serve this nation.

Baroness Thornton (Lab): My Lords, on these Benches we fully support preserving the Covid-19 national memorial wall across the river. It is a people's memorial and every heart there represents a beloved person lost to their family and friends. So I ask the Government to work with the stakeholders involved to preserve that wall because, whatever and however the formal memorial is planned—quite rightly, it must be a national memorial that covers everybody affected by the pandemic —does the Minister agree that this is not a choice between one or the other?

Lord True (Con): My Lords, we all need to find ways to remember. My aunt died in the Spanish flu pandemic, which was a lifelong sadness to my mother, 70 years after her death. Memories of this pandemic will last equally long and bite equally deep, as the noble Baroness said, in many personal ways. We are aware of the call for the memorial wall to become a permanent national memorial and we welcome the discussions being led by Lambeth Council on this.

Baroness Barker (LD): My Lords, does the Minister agree that it is perhaps a bit premature to decide on one national memorial at the moment, as we are far from near the end of this pandemic? Does he know about the memorial forests initiative, whereby people can plant a tree in memory of somebody they know? That campaign has the additional benefit that people can access it online—they do not have to go to London to pay remembrance. Does he think that is worth promoting more generally to the public?

Lord True (Con): The noble Baroness of course makes a very good point; I would always commend the planting of trees. We have received a very large number of views and suggestions from parliamentarians, as we have heard today, and the public on how this period should be remembered and commemorated, which we will pass on to the commission as it is established. I assure noble Lords that it will give full consideration to all initiatives and ideas and provide recommendations to the Prime Minister.

Viscount Ridley (Con): My Lords, does my noble friend agree that we owe it to the dead, as a memorial, to find out how this pandemic began? I declare an interest in having co-authored a book on the topic.

Lord True (Con): My Lords, I do agree, although that is obviously not entirely under the control of Her Majesty's Government. However, there are billions of people across the world who will need to be satisfied and have their minds put at rest in the way my noble friend asks.

Baroness McIntosh of Hudnall (Lab): My Lords, does the Minister agree that perhaps one of the best memorials to those who have died, and those who may still die, from this virus would be that we are better prepared for the next one?

Lord True (Con): Yes, we should always seek to be better prepared for everything in life. When we have the inquiry, I have no doubt there will be lessons to be learned by this Government, and I agree with the noble Baroness that the Houses of Parliament and the whole community will want to learn every lesson.

Lord Lexden (Con): My Lords, will the memorial encompass our entire country—all four parts of our United Kingdom?

Lord True (Con): Yes, it will be a United Kingdom commission.

Lord Harris of Haringey (Lab): My Lords, I am not sure that the noble Lord fully answered the question from my noble friend Lady McIntosh. If we are to be prepared for this eventuality, are we preparing ourselves

[Lord Harris of Haringey]
for those eventualities that we might not yet be able to foresee? Will the Government look at their contingency arrangements—I declare my interests in the register on this—to make sure that they report regularly and in full to Parliament on the mitigations in place for each of the risks on the national risk register?

Lord True (Con): My Lords, the noble Lord is an indefatigable—I am not sure that I can say that word with the current state of my voice—advocate of the national risk register, and I accept where he is coming from. Obviously, there are certain unknown unknowns that are difficult to know, but I absolutely accept the spirit behind his question.

Lord Grocott (Lab): My Lords, which are the unknown unknowns that are easy to know?

Lord True (Con): I will bow to the superior ingenuity of the noble Lord opposite on that question.

Lord McColl of Dulwich (Con): My Lords, the question has been raised about trying to prevent mortality from a future epidemic. The present epidemic is largely due to—or at least made much worse by—the fact that 71% of British people over the age of 70 are obese, and obesity and Covid are a fatal combination. If we want to prevent future mortalities, we have to get the nation to slim down. The Prime Minister has raised the whole question of reducing obesity by himself taking three stone off and advocating that that is what we should all be doing.

Lord True (Con): My Lords, my noble friend lays a gentle stiletto between my ribs. Apart from the humorous side of it, there is a very serious side to what my noble friend says. There is an unequivocal connection in the terms that he describes, which each of us should bear in mind and which we should all be well aware of.

Lord Wigley (PC): My Lords, are not nurses and those working in care homes among those who gave most to save people during the pandemic? Would it not be a worthy way of recognising that to give them all a decent pay settlement?

Lord True (Con): My Lords, I am not going to debate pay policy from the Dispatch Box, but I will take the noble Lord's comments—to which I heard some assent in the House—and pass them on to colleagues in government.

Lord Sterling of Plaistow (Con): My Lords, I am very taken with the idea of planting trees; it has been done in other parts of the world. In the years to come, there will be many more victims of Covid-19, and it would mean that anybody in future could have a tree planted, and that would help with the greening project ahead of us as well.

Lord True (Con): My Lords, again I see a wonderful unity across the House, which I do not always sense, on the idea of planting trees, and I am sure this will be something that the commission will very much consider.

Children and Families Act 2014: Education, Health and Care Plans

Question

3.28 pm

Asked by ***Lord Blunkett***

To ask Her Majesty's Government what plans they have to amend the Children and Families Act 2014; and in particular, the eligibility requirements for obtaining an Education, Health and Care plan.

The Parliamentary Under-Secretary of State, Department for Education (Baroness Barran) (Con): My Lords, the special educational needs and disabilities system, established in the Children and Families Act 2014, does not consistently deliver for children, young people or their families. This is why the Government established the SEND review, which will consider all elements of the SEND system, including the effectiveness of education, health and care plans. We intend to publish proposals for full public consultation in the first three months of 2022.

Lord Blunkett (Lab): My Lords, attention has rightly been paid over recent days to the disappeared children, who have not attended school or anywhere else in the last 18 to 20 months. One of the worst aspects of this is that tens of thousands of children with special educational needs have disappeared because they do not have the support necessary. We have had an NAO report, and a Commons Select Committee report two years ago; we have had an internal review going on for two years. Is it not time that the Government accepted that the simple truth is that, while capital spending is very welcome, what is needed is cash to fund the EHCPs, to make certain that young people can get to school, stay at school and have a decent education at school?

Baroness Barran (Con): The noble Lord is right to remind the House of the tragic events of the last few days. I think there are different aspects to addressing this. He is right that the Government have announced £2.6 billion of additional capital funding to provide more places, and those are much needed. The Government are also providing considerably more revenue funding to local authorities—an increase in 2022-23 of £780 million. The review will also focus—I am sure the noble Lord will agree with this—on earlier intervention wherever possible.

Lord Addington (LD): My Lords, I declare my interests in this field. The process of getting an EHCP is one in which you are advised to have lawyers with you, and often you have to go to appeal, where you are opposed by lawyers. How does that suggest that the system is anything other than a failure, or is it designed to be something that supplements the legal system?

Baroness Barran (Con): It is certainly not designed to supplement the legal system. The noble Lord is right to raise the issue of tribunal hearings, but I remind the House that in 2020 only 1.7% of all appealable decisions resulted in an appeal to the SEN Tribunal.

Lord Lexden (Con): My Lords, my noble friend's predecessor said on 4 March last year that the special educational needs and disabilities review was

"an absolute priority for the Government."—[*Official Report*, 4/3/20; col. 694.]

We heard yesterday that the Government have some difficulty in defining the word "priority" with any precision. Why, apart from Covid, has this review, which began in 2019, taken so long?

Baroness Barran (Con): I understand my noble friend's diplomatically put question. He is right to raise the issue of Covid, but he will also know that this is an incredibly complex area. We have set up a steering group that includes families, schools, local authorities and other independent organisations. We are committed to the deadline, which has now been announced, of publishing the Green Paper in the first quarter of next year.

Baroness McIntosh of Hudnall (Lab): My Lords, the Minister referred to early intervention. Does she agree that one of the difficulties with this area is that families with children who appear to be needing assessment —for example, for autism or learning difficulties—find it very difficult even to get the assessment, never mind the care plan that would come from it? Can she say how that problem is being addressed? How should families who cannot afford to spend money on private assessments conduct themselves?

Baroness Barran (Con): The noble Baroness raises an important point. I feel I cannot comment in detail ahead of the Green Paper, but those are exactly the sorts of issues we are working with families, local authorities and other professionals to address.

Ukraine and Russia: Military Developments

Question

3.33 pm

Asked by ***Lord Coaker***

To ask Her Majesty's Government what assessment they have made of military developments on the border between Ukraine and Russia.

The Minister of State, Foreign, Commonwealth and Development Office (Lord Ahmad of Wimbledon) (Con): My Lords, we are deeply concerned by Russia's pattern of military build-up in and around Ukraine and are closely monitoring the situation. My right honourable friend the Foreign Secretary has held discussions with her Russian and Ukrainian counterparts, restating the UK's strong support for Ukraine and urging the Russian Government to de-escalate the situation. We are looking at a package of sanctions to raise the cost of any further aggressive Russian actions against Ukraine. We already support Ukrainian military development and regularly conduct joint exercises.

Lord Coaker (Lab): My Lords, we are edging ever closer to a real crisis in Ukraine, with the US Defense Intelligence Agency speaking of a potential 175,000 Russian troops on the border; with emergency talks between President Biden and President Putin; and with the President of Ukraine asking for British soldiers. The Minister will note that this is a very real crisis and one morning we are going to wake up, as the Defense Intelligence Agency says, to a Soviet invasion of Ukraine. What is our response going to be if anything like that happens? What are we doing to talk to the Russians to secure assurances from them about this situation? Are we talking to our European neighbours? Let us get it sorted before we have a very real crisis on our hands.

Lord Ahmad of Wimbledon (Con): My Lords, the noble Lord speaks from deep insight as a former shadow Secretary of State for Defence. I assure the noble Lord that we are working very closely with our European allies and indeed the United States. As the noble Lord accurately said, recently President Biden and President Putin have had discussions, but over the last couple of days there were also meetings between our Prime Minister and other leaders, including our European allies, where our Prime Minister updated others on his conversation with President Putin. Equally, at the OSCE recently, my right honourable friend the Foreign Secretary, among others, met the Foreign Ministers of both Russia and Ukraine and reiterated the points that I have made. Today, as the noble Lord may know, we are engaging in a strategic dialogue with Ukraine in London.

Lord Lancaster of Kimbolton (Con): My Lords, the United Kingdom has been a key contributor to the enhanced forward presence in Estonia and Poland, underlining NATO's Article 5 principle that an attack on one is an attack on all. Of course, Ukraine is only an aspirant member of NATO, so Article 5 does not apply, but has there been any discussion within NATO about potentially delivering a parallel programme to send a very clear message to the Russians that we support our Ukrainian allies?

Lord Ahmad of Wimbledon (Con): Again, I can assure my noble friend. He is right to raise the issue of NATO. We remain very strong supporters, based on the 2008 Bucharest summit declaration, of Ukraine's membership of NATO. I assure my noble friend that we are talking to NATO allies on this very point; indeed, it was a subject of conversation in my right honourable friend the Foreign Secretary's recent meeting with NATO.

Baroness Coussins (CB): My Lords, when Russia annexed Crimea, there were reports that we would have been better able to anticipate and track events if there had been more Russian speakers in the Foreign Office. Are we better equipped now to monitor what might be happening between Russia and Ukraine?

Lord Ahmad of Wimbledon (Con): My Lords, Russian is one of the languages that form part of our diplomatic academy, and of course those deployed to Russia receive language training. Our diplomats speak more than 40 languages, and Russian is one of them.

Baroness Smith of Newnham (LD): My Lords, when the Soviet Union invaded Afghanistan in 1979, the European response was delayed because it happened at Christmas. When the Americans left Afghanistan, the British response was marred by the fact that the Foreign Secretary and the Permanent Secretary were both on holiday. Can the Minister tell the House whether the Foreign, Commonwealth and Development Office is now looking again at leave policy to make sure that at crucial times somebody is always in the office?

Lord Ahmad of Wimbledon (Con): My Lords, in any crisis lessons are learned, and the noble Baroness is right. The challenges of the situation we saw in Afghanistan are all too apparent. What we did achieve we look at with a great degree of humility, and we must show humanity in our response to Afghanistan. On the issue of Christmas, and the situation not just in Ukraine but in other parts of the world, we are very much prepared and focused on that, as is my right honourable friend the Foreign Secretary.

Lord West of Spithead (Lab): My Lords, I feel a little reassured by the Minister's answer. The response from the Government Front Bench the previous time we debated this in the House—that a thermonuclear war would be "unwelcome"—did not really reassure me.

On Ukraine itself, there is very real concern that there are some in Ukraine who would like to stoke this for something to happen, and part of that is because we have pushed for it to become a member of NATO. I think that is a mistake because it has caused a problem within Russia. I ask the Minister: are we in a very firm dialogue with Ukraine to make sure that it keeps a clamp on what is happening there and that we are not promising it things such as NATO, which do nothing but encourage the situation to get worse?

Lord Ahmad of Wimbledon (Con): My Lords, the answer to the noble Lord's second question is: yes, we are very closely engaged with Ukraine, as we are today, on the issue of its NATO membership and, indeed, our support. The support we have given militarily is very much defensive and based on technical support as well.

Lord Balfe (Con): My Lords—

Lord King of Bridgwater (Con): My Lords—

Baroness Fall (Con): My Lords—

Lord Balfe (Con): My Lords, there have been a lot of difficulties in Ukraine, partly with the non-implementation of the agreement made in Minsk, the need for talks about the future of eastern Ukraine, and a follow-up of the initiative of the Finnish President to de-escalate the situation and have a peace conference in Europe to look at the outstanding issues that have arisen following the dissolution of the Soviet Union. Should not we put our efforts behind those of the Finnish President to get a discussion going?

Lord Ahmad of Wimbledon (Con): My Lords, we are supportive of all peaceful efforts, and in particular we are focused on the Minsk agreements, which Russia has also signed—and we ask it to uphold that agreement.

Lord Collins of Highbury (Lab): My Lords, one thing that the Minister mentioned is working with our allies. Sanctions, as he knows, are ineffective without support from allies. President Biden's talks with President Putin resulted in certain conditions being laid down. The United States National Security Adviser, Jake Sullivan, reported on some of the counter-measures. What everyone in this House wants to know is whether this Government will be prepared to work with our allies in implementing such measures in time, unlike their failure fully to implement the Russia report.

Lord Ahmad of Wimbledon (Con): My Lords, on the noble Lord's second point, I have written to him and, if there are further questions, I shall follow it up.

Lord Collins of Highbury (Lab): I have not got it.

Lord Ahmad of Wimbledon (Con): I have a copy of the letter, and I can give it to him afterwards. On his earlier point, the short answer is yes. When we have worked on sanctions, we have worked with our EU allies as well as others.

Lord Stirrup (CB): My Lords, this is not an isolated crisis but part of a long-term campaign by a gangster regime, which includes international assassinations, the subversion of legitimate Governments and interference in democratic processes. It has been going on for years and will go on for years. Does the Minister not agree that what is required is not just a set of responses to this particular incident but a long-term diplomatic effort to gain co-operation and determination across Russia's opposition? Should we not be reducing a little bit the heat of the arguments that we have with some of our neighbours in favour of greater co-operation—stop squabbling over fish when the sharks are circling?

Lord Ahmad of Wimbledon (Con): My Lords, there is little I can disagree with from the noble and gallant Lord, who speaks with great insight. I assure him that I agree with him totally—we need to take the temperature down. We have seen the situation with the likes of Mr Navalny, and where we have been most effective is when we have acted and acted together.

Lord King of Bridgwater (Con): Is my noble friend aware that, when the Soviet Union collapsed, great attention was not necessarily paid to some of the territories—but in Russia the loss of Ukraine was much the most sensitive? I entirely agree with the point made by the noble Lord, Lord West. In this difficult situation, in which Russia has now seen the steady advance of NATO right up to its very borders, the sensitivity of this situation—not to allow any action against Ukraine but to recognise the genuine Russian concern—needs to be properly addressed.

Lord Ahmad of Wimbledon (Con): I agree with my noble friend, which is exactly why my right honourable friend the Prime Minister and my right honourable friend the Foreign Secretary have engaged directly with President Putin and Foreign Minister Lavrov. Again, we continue to engage with Russia through other channels, including at the OSCE and the UN Security Council.

Lord Campbell of Pittenweem (LD): My Lords—

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

Parliamentary Partnership Assembly

Motion to Resolve

3.44 pm

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

To resolve that this House:

(1) takes note of the provision in Article 11 of the UK–EU Trade and Cooperation Agreement for the establishment of a Parliamentary Partnership Assembly (PPA) consisting of Members of the European Parliament and of Members of the Parliament of the United Kingdom, which:

(a) may request relevant information regarding the implementation of that agreement and any supplementing agreement from the EU–UK Partnership Council established by Article 7 of that agreement, which shall then supply the EU–UK PPA with the requested information;

(b) shall be informed of the decisions and recommendations of the EU–UK Partnership Council; and

(c) may make recommendations to the EU–UK Partnership Council;

(2) agrees that a delegation from the UK Parliament consisting of 35 members drawn from both Houses should participate in such an Assembly; and

(3) takes note of the first report from the House of Lords Commission, EU–UK Parliamentary Partnership Assembly (1st Report, HL Paper 114) and confirms that the procedures currently applying to the nomination, support and funding of delegations to the Parliamentary Assembly of the Council of Europe, the NATO Parliamentary Assembly and the OSCE Parliamentary Assembly should apply to the delegation to the EU–UK PPA.

Lord Ashton of Hyde (Con): My Lords, before I speak to the Motion, I extend my condolences to the family and friends of my late noble friend Lord Denham who, as the Lord Speaker announced earlier, died at the weekend. Lord Denham served this House with great distinction for more than 70 years, including as Government Chief Whip for 12 years.

The Motion standing in the Leader's name invites the House to agree in principle to its participation in the EU-UK Parliamentary Partnership Assembly, or PPA. The House of Commons agreed a Motion in the same terms on Monday this week, and the European Parliament decided its intention to participate on 5 October. The House of Lords Commission discussed the participation of this House at its meeting on 16 November and in its first report of this Session set out some background to help inform the House's decision today. That report was published on 25 November.

The Motion is the culmination of many months of careful and patient dialogue between the two Houses and with the European Parliament, much of which has been carried out on behalf of this House by the noble Earl, Lord Kinnoull. I would like to put on record my thanks for the work that he and his team have done to help get the PPA off the ground. I beg to move.

Lord Cormack (Con): Would it not be very appropriate if, on this occasion, those Members from this House and the other were elected by their colleagues?

Lord Ashton of Hyde (Con): My Lords, this is not a Committee of the House. This is the way that all parliamentary delegations are appointed, and we see no reason why this should be different from the NATO Parliamentary Assembly or the Parliamentary Assembly of the Council of Europe.

Motion agreed.

Customs Safety and Security Procedures (EU Exit) (No. 2) Regulations 2021

Solvency 2 (Group Supervision) (Amendment) Regulations 2021

Heavy Commercial Vehicles in Kent (No. 2) (Amendment) (No. 2) Order 2021

Motions to Approve

3.46 pm

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

That the draft Regulations and Order laid before the House on 15 November be approved.

Relevant document: 22nd Report from the Secondary Legislation Scrutiny Committee. Considered in Grand Committee on 7 December.

Motions agreed.

Education (Assemblies) Bill [HL]

Third Reading

3.47 pm

Motion

Moved by ***Baroness Burt of Solihull***

That the Bill do now pass.

Baroness Burt of Solihull (LD): My Lords, in moving that this Bill do now pass, can I just say how delighted I am that this landmark Bill has reached Third Reading and will shortly conclude its journey through this place? I am grateful for the wide support it has received from noble Lords and from Humanists UK, which has assisted me throughout.

Colleagues have rightly recognised the importance of enabling children to take part in inclusive assemblies as part of their school day, and the pressing need to

[Baroness Burt of Solihull]
address the current injustice whereby those children who do not wish to take part in collective worship can at best be left twiddling their thumbs and at worst be ostracised from their peers, while the structured school day carries on without them.

The UK is the only sovereign state in the world to impose worship in all state schools, including those without a religious character. This Bill would free up schools to hold assemblies on topics parents want to see covered and uphold children's rights to an inclusive education. It would also reflect the recommendations from the UN Committee on the Rights of the Child, which has urged the UK to repeal these collective worship laws.

Finally, I just place on the record my heartfelt thanks to all noble Lords who have engaged with this Bill throughout its progress. It has led to robust and stimulating debate about the moral framework within which we educate our children. I wish the Bill well on its next stages in the other place, where the chair of the All-Party Parliamentary Humanist Group, Crispin Blunt, intends to pick it up. Meanwhile, I beg to move

Bill passed and sent to the Commons.

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

Third Reading

3.49 pm

Motion

Moved by ***Lord Greenhalgh***

That the Bill do now pass.

The Minister of State, Home Office and Department for Levelling Up, Housing & Communities (Lord Greenhalgh) (Con): My Lords, it is a pleasure to see this Bill through to its conclusion.

The pandemic has had far-reaching and unexpected impacts and the business rates part of this Bill seeks to address its potentially distortive effects on the rating system and local government income. By clarifying that coronavirus and the Government's response to it will not be considered a "material change of circumstances" for the purpose of property valuation, the Bill ensures that the rating system will continue to operate as it was intended to. It also removes a significant source of uncertainty for local councils.

I thank noble Lords for the engagement we have had during the passage of the Bill. We have sought to strike the right balance between getting this important measure passed quickly and leaving space for legitimate discussion on the wider issues at play, for instance the future of business rates. Considerable expertise has been in evidence, which will be of great value when we come to debate the more substantial changes that the Government have announced. In particular, I thank the noble Baronesses, Lady Blake and Lady Pinnock, for their careful scrutiny and, ultimately, the very welcome support they have offered.

The new power to investigate the conduct of former directors of dissolved companies and seek to disqualify them where appropriate will have far-reaching benefits to the economy, in terms of improved confidence in lending, and to business and the wider public, in protecting them from the actions of rogue directors.

Of course, there is the very pressing matter of ensuring that the Government have the tools they need to tackle those reprehensible individuals who have taken advantage of a public health crisis to line their own pockets, and this new measure will play its part in bringing them to task. I am sure noble Lords will agree with me that it is only right that the retrospective provision in this measure will mean that the investigation of those individuals may start immediately upon Royal Assent.

As well as the noble Baronesses, I extend my thanks to the noble Lord, Lord Fox, and my noble friend Lord Leigh, who have provided thoughtful and constructive contributions to the debate on the director disqualification part of this Bill. Finally, I thank the Bill teams in the Department for Levelling Up, Housing and Communities, and the Insolvency Service for bringing me up to speed on some of the more detailed provisions and helping me get a proper understanding of the Bill. I beg to move that this Bill do now pass.

Baroness Blake of Leeds (Lab): My Lords, it is fair to say that there has been some significant consternation from noble Lords at the way this Bill was initially put together. However, in the main, we support its passage to get help to those in serious need.

We expressed our ongoing concerns at different stages of this Bill. It is obvious that the whole area of business rates needs urgent review and root-and-branch reform. Likewise, enormous concerns remain as to whether the Insolvency Service is sufficiently resourced to meet its obligations under the Bill with regard to the significant increase in business, as outlined.

I put on record my appreciation of the informed contributions from the noble Lords, Lord Fox and Lord Leigh, the noble Earl, Lord Lytton, and the noble Baroness, Lady Pinnock. I thank my noble friends Lord Hunt and Lord Sikka for their invaluable insights and knowledge on these matters.

From these Benches, we express our gratitude to the Bill team, the clerks and the staff of the House, and the Insolvency Service for the in-depth briefings it provided. I also thank both Ministers involved in this Bill: first, the noble Lord, Lord Greenhalgh—I particularly acknowledge the further detailed investigation he went into when the cause of our concerns over the business rates issue came to light—and the noble Lord, Lord Callanan, for his continued courtesy in offering regular briefings from his team and the insolvency support service on the various matters under consideration.

Finally, I thank both Ben Wood and Dan Harris, our excellent advisers, for their unfailingly high standard of support throughout the proceedings.

Clearly, both matters leave further work to be undertaken in both Houses, as has been outlined. I will watch the implementation of provisions with great interest.

Baroness Pinnock (LD): My Lords, on behalf of my noble friend Lord Fox, I thank the noble Lord, Lord Callanan, for the constructive meetings that helpfully resolved the issues in the part of the Bill dealing with directors' disqualifications and insolvency. I thank the Minister for the time he devoted to discussions on the Bill and the private meetings we held to try to resolve various issues, some of which remain; nevertheless, we are happy that the Bill has to pass to deal with the issues in front of us. I am still concerned about its retrospective nature, an issue that we did not fully resolve, inevitably. As the noble Baroness, Lady Blake, has said, the reforming of business rates is still a major concern. But with that in mind I wish to thank everybody who was involved, particularly Sarah Pughe, from the Lib Dems' legislative team, for her help and advice. I am grateful for the way the Bill was discussed and debated so that we were, in the end, able to support it. With that, I thank the Minister for his help.

The Earl of Lytton (CB): My Lords, I will make a contribution from, as it were, the technical Benches on the matter of non-domestic rating. I thank the Minister—this will probably be the only time I can thank him publicly—for writing to me about matters he raised when we were at a previous stage of the Bill, in connection with the package of measures the Government have put in place to try to alleviate the problems facing businesses. I do not know whether the right term is "sidestep", but I suspect he did not quite get the point I was making. Where a major manufacturer carries out works to meet an environmental target—for decarbonisation, for example—and in doing so wrecks something tantamount to a building or structure, or an item covered by the plant and machinery order, a proportion of its value automatically gets built in as an addition to the rateable value. That has been described to me as the double whammy of having to pay for the improvement to meet a government-imposed target, and additional rates. I was trying to focus on specific instances involving a building or structure, or the plant and machinery order, but I leave that to one side because that was to some extent an overture to what the Bill is about. I mention it only because the Minister was making the point about the assistance the Government have provided.

As for the Bill itself, I obviously regret a business rating measure of such a binary nature preventing the effects of coronavirus being properly reflected in rental values as a material change of circumstances for the purposes of making appeals against the assessments. Although the government package of reliefs and other support for the business sector is extremely welcome, it none the less pales into insignificance compared with what businesses could have expected, had a material change of circumstances applied. I will leave that there.

The Government say that the material change of circumstances was never intended to apply to things like pandemics. Well, probably not, but there has never been a time like this when HM Treasury and HMRC have been quite so keen to protect their income streams come what may, regardless of the precise effects on businesses. I hope this Bill does not have the consequences I fear it might, but I remain concerned that the whole process of business rates is beginning to drive responses, which should always be a warning sign with any taxation measure going forward. That said, I thank the Minister and the Bill team, and other noble Lords who have spoken up for the business rate payer. I wish this Bill a safe passage, and I hope it will not fulfil my worst prognostications.

3.59 pm

Bill passed.

Armed Forces Bill

Commons Reasons

4 pm

Motion A

Moved by ***Baroness Goldie***

That this House do not insist on its Amendment 1, to which the Commons have disagreed for their Reason 1A.

1A: Because a presumption in favour of the offences in question being heard in the civilian courts is not necessary or justified.

The Minister of State, Ministry of Defence (Baroness Goldie) (Con): My Lords, with the leave of the House, in moving Motion A I will address Motion A1, and then Motions B and B1. Obviously there will be a certain element of déjà vu in my remarks but I shall do my best to explain once again why the Government hold to the view they do on these issues.

Over the last 20 years, the service justice system has gone through many changes and been transformed for the better as a result of them. There have been numerous reviews and inquiries, some as a consequence of operations, but all of which have enabled the service justice system to develop and improve. It is no longer recognisable as the system existing 10 to 15 years ago with which many of your Lordships were familiar.

The service police, prosecutors and judiciary are fully independent and trained. They are skilled and have the experience to deal with all offending to the same standard as their counterparts in the civilian criminal justice system. In particular, prosecutors are trained for rape and serious sexual offences, and judges/judge advocates are "ticketed" to deal with particular offences. Our code of practice for victims reflects the same principles as that for civilians and we use many of the same arrangements as in the civilian justice system, such as special measures for vulnerable witnesses. Any visitor to a court martial centre will find it remarkably similar to any Crown Court in England and Wales. In fact, in some areas the court martial is ahead of the civilian system, such as in the use of video links. It is for these reasons that the service justice system is legitimately positioned as an alternative jurisdiction to the civilian criminal justice system in respect of any criminal offence in the UK.

The recently published review by the retired High Court judge Sir Richard Henriques QC and the earlier *Service Justice System Review* by His Honour Shaun Lyons both strongly supported the continued existence of the service justice system. Sir Richard fully agreed with the Government's decision to retain unqualified

[Baroness Goldie]
concurrent jurisdiction for murder, manslaughter and rape. He recommended a number of proposals to further strengthen the service justice system so that it has the best expertise and capacity to deal with all crimes. We have prioritised his recommendation of creating a defence serious crime unit, headed by a new provost marshal for serious crime in the Bill. This is a major development for the service justice system and it demonstrates the Government's commitment to achieving the highest investigative capabilities within it. The new unit will play a key role in our strategy to drive up conviction rates.

I know we all have a common aim, which is to ensure that every case is heard in the most appropriate jurisdiction. We also agree that in the event of disagreement about jurisdiction, a civilian prosecutor should have the final say. However, we maintain that rather than involving the Attorney-General as set out in this amendment and creating an in-built bias towards the civilian jurisdiction, a better approach is to strengthen the prosecutors' protocols and clarify the role of the prosecutors—civilian and service—in decision-making on concurrent jurisdiction.

The service justice system cannot be half a justice system or a partial justice system. It has to handle all crimes committed by service personnel outside the UK. It makes sense for it to continue to be able to handle all crimes in the UK. In the UK, this will be subject to the operation of the prosecution protocols in respect of which the view of the civilian prosecutor, as I said, will prevail.

Just for the avoidance of doubt, I take this opportunity to reassure the House that the proposal in this Bill is not about increasing the number of serious cases to be dealt with by the service justice system; it will continue to be the case that a victim can choose whether to report a criminal offence to the service or the civilian police. Our proposal simply maintains the principle that both jurisdictions are capable of dealing with all offending, and asserts that qualified and experienced prosecutors are best placed to make decisions where there is concurrent jurisdiction. Removing crimes from the competence of the service justice system or introducing a presumption in favour of the civilian system for serious crimes, as in this amendment, inevitably calls into question the integrity of the service justice system, raising a perception by victims, witnesses, service personnel and the public that the service justice system is deficient. That is unacceptable to the Government. That weakening and fracture of the service justice system is impossible for them to defend.

Let me now address conviction rates in the service justice system for sexual offences, in particular for the offence of rape, because this is clearly important. In his report, Sir Richard Henriques makes the point at page 201 that the comparison of conviction rates between the service and civilian justice systems overlooks the fact that the service police refer, and the Service Prosecuting Authority prosecutes, cases that would have been discontinued in the civilian system.

The number of rape cases prosecuted in the civilian system stands at between 1.6% and 3% of those reported to Home Office police forces. The Crown Prosecution Service has announced an action plan to address this disparity. Noble Lords will recall that the Government are also working on a new strategy for the service justice system when dealing with cases of rape and other serious sexual assaults. In the service justice system, 55% of rape investigations carried out by the service police in the period from 2017 to 2019 led to a referral to the Service Prosecuting Authority, and 27% of rape investigations led to a suspect being charged. In 2020, 50% of rape investigations by the service police led to charges and prosecution. Viewed as a proportion of allegations reported, rather than of cases prosecuted, the conviction rate in the service justice system is around 8% compared to around 2% in the civilian system. Let me be clear that this rate is still too low but should not be used as a reason for departing from the current principle of concurrent jurisdiction. Your Lordships may be interested to know that more recent data about cases of rape prosecuted at the court martial in the last six months show a conviction rate of just under 50%. Clearly, the service justice system is capable of investigating and prosecuting these cases.

I now wish to turn to specific details of the amendment, parts of the text of which cause concern. It seeks to introduce a consultation role for the Attorney-General in England and Wales only. The service justice system applies across the whole UK. That is why there is provision in the Bill for three separate protocols to ensure that the same approach is taken across the three legal jurisdictions of England and Wales, Scotland and Northern Ireland. As it stands, the application of the amendment to only England and Wales rather than the whole UK means that cases involving service personnel in those parts of the country would be handled differently from cases handled in Scotland or Northern Ireland. The amendment is unsuitable to be extended to Scotland or Northern Ireland. Consultation with the Attorney-General for England and Wales on prosecutorial decisions is entirely inappropriate for the devolved Administrations. For example, the independence of the Lord Advocate as head of the system of criminal prosecution and investigation of deaths in Scotland means that decisions are taken independently of any other person, and this includes not being subject to guidance or direction of another officeholder. It is my understanding that the Lord Advocate would be concerned about any extension of the proposed approach to Scotland.

Finally, I say with the greatest respect that it is not entirely clear to the Government what is meant by the condition of "naval or military complexity", and how that will be defined, by whom and how it should be interpreted. This approach will lead to confusion and a lack of clarity about how and when the Attorney-General for England and Wales should be consulted.

On the other hand, Clause 7 of the Bill ensures that decisions on jurisdiction are left to the independent service justice prosecutors across the UK, and their respective civilian prosecutors, using guidance that they have agreed between them that will, no doubt, address the military dimension to be considered. Once in place, this new statutory guidance will be used to revise existing protocols between the service and the civilian police to bring much-needed clarity at all levels on how decisions on jurisdiction are made.

The Bill also makes it clear that where there is a disagreement on jurisdiction, the civilian prosecutor—be it the Director of Public Prosecutions for England and Wales, the Lord Advocate or the Director of Public Prosecutions for Northern Ireland—always has the final say. So the service justice system prosecutor cannot ignore the civilian prosecutor and railroad cases through the service justice system. In this way, the Government's approach not only provides a solution which works UK-wide but provides ample safeguards to ensure that civilian prosecutors are involved and cases are dealt with in the most appropriate jurisdiction.

In these circumstances, I beg to move Motion A in my name, and I urge the noble Lord, Lord Thomas of Gresford, not to press his Motion A1.

I will now move on to Motions B and B1, in relation to the Armed Forces covenant. The covenant is described as:

"An Enduring Covenant Between the People of the United Kingdom, Her Majesty's Government and All those who serve or have served in the Armed Forces of the Crown and their Families."

The covenant was rebuilt a decade ago during a time, like today, of great pressure on the Armed Forces community, and has since been delivered in a highly successful manner, because it captures the appreciation and support for the sacrifices of that community of people from every walk of life across the United Kingdom.

This embodies the spirit of the covenant, which of itself is not a legal obligation, and nor should it be. But that is not to say that legislation has not been important in helping its delivery. That began with the obligation on the Secretary of State for Defence to report to Parliament annually on how service life impacts on the lives of servicepeople and former servicepeople. By working with our service providers and key stakeholder groups, from this one measure the covenant has evolved into one of the key drivers of welfare support to our Armed Forces community today. We are now taking the next step to promote and further strengthen the legal basis of the covenant, as we committed, which is why we are taking forward the provisions in this Bill.

Ensuring that key policymakers have the right information about the Armed Forces community and are therefore better able to make the right decisions for their local populations has been fundamental to our current success. Building on this foundation, the new duty will therefore oblige specified public bodies exercising a relevant healthcare, education or housing function to pay due regard to the three principles of the covenant. We see this as a sure and effective way of raising awareness among providers of public services of how service life can disadvantage the Armed Forces community, thereby encouraging a more consistent approach around the country.

However, these provisions are breaking new ground, and it is important that we see how they work in practice so that we both establish an evidence base and allow time for review and assessment to inform future enlargement of this obligation to any new bodies or functions. The provisions in the Bill will allow that enlargement more easily by granting the Secretary of State the power to add to the scope of the duty through regulations, without the need to wait for another Armed Forces Bill.

I have already outlined in this place the work we are undertaking with covenant reference group stakeholders to establish a process to help the Secretary of State to identify and assess functions that it would be beneficial to add to the scope of the duty, including those that are the responsibility of central government. This process will feed into our existing commitment to review the overall performance of the covenant duty as part of our post-legislative scrutiny.

I remind your Lordships of the current legal obligation on the Government to annually prepare and lay an Armed Forces covenant report. In the preparation of the annual report, the Secretary of State must have regard to the three principles of the covenant. He must obtain the views of relevant government departments and devolved Administrations in relation to the effects on servicepeople covered by the report. He must state in the report his assessment of whether servicepeople are facing disadvantage and, importantly, where he is of the opinion that there is disadvantage, what his response is to that, including consideration of whether the making of special provision would be justified. This means in essence that covenant delivery at a national level remains under continual review and, far from avoiding responsibility, demonstrates how this Government are committed to ensuring that the needs of the Armed Forces community are identified so that action can be taken.

4.15 pm

On Report, I listed many of the initiatives that the Government have taken forward as a result of the clearer picture provided by the annual report, such as the inclusion of veteran-specific care pathways in England for mental health and prosthetic care in the NHS constitution, or the creation of a new schools admissions code. This level of oversight by Parliament, together with other regular procedures such as reviews by the House of Commons Defence Select Committee, and Parliamentary Questions and debates, will ensure that the Government are held to account in respect of the covenant and the Armed Forces generally. That was something that the Labour defence spokesperson confirmed in the other place on Monday, when he said that he would hold the Minister

"robustly to account when the Government fail to stand up for our armed forces or to act in the national interest."—[*Official Report*, Commons, 6/12/21; col. 100.]

That is absolutely right, and what the Labour defence spokesman in the other place is there to do. We welcome this level of scrutiny. We have nothing to hide. In taking forward this Bill, the Government have no malign or covert agenda. We are simply seeking to provide a firm legal foundation to build on and progress the successful evolution of the covenant that we have seen to date. This new duty provides us with the opportunity to do that and I urge your Lordships to support the Government in this aim.

So I will be moving Motion B in my name, and I respectfully ask the noble and gallant Lord, Lord Craig of Radley, not to press his Motion B1.

Motion A1 (as an amendment to Motion A)
Moved by ***Lord Thomas of Gresford***

At end insert ", and do propose Amendment 1B in lieu—

1B: Page 4, line 27, at end insert—

"(4A) Guidance under subsection (3)(a) must provide that where offences of murder, manslaughter, domestic violence, child abuse, rape or sexual assault with penetration are alleged to have been committed in the United Kingdom, any charges brought against a person subject to service law shall normally be tried in a civilian court unless, by reason of the circumstances, including but not limited to specific naval or military complexity involving the service, the Director of Public Prosecutions, after consultation with the Attorney General, directs trial by court martial.""

Lord Thomas of Gresford (LD): My Lords, I will start with a quotation. In the Ministry of Defence

"there is one individual who is refusing to back down from the alleyway he has found himself in."—[*Official Report*, Commons, 6/12/21; col. 105.]

Those are the words of the former Defence Minister Johnny Mercer, speaking in the debate in the other place on Monday night, on the amendment that we sent. He had earlier said:

"Unfortunately, I was in the room when this decision was made. The evidence did not support the Secretary of State at the time and the evidence does not support the Secretary of State today. I cannot vote against the Lords amendment; it is not the right thing to do. Let me be clear: when the Secretary of State made that decision"—

the issue that we are discussing today—

"it was against the advice of the officials in the Department and against the advice of his Ministers."—[*Official Report*, Commons, 6/12/21; col. 104.]

Unusually, the veil is lifted. Mr Mercer clearly identifies Mr Ben Wallace, the Secretary of State for Defence, as the man in the alleyway who, against the advice of his officials and his Ministers, persists in resisting this amendment. The Minister knows that I have always assumed that she would not, in her personal capacity, back the Government's position—but now we have direct evidence from Mr Mercer, her former colleague.

I could leave it at that. I could await the storm of protest from victims whose cases are dismissed at court martial, who will come forward brandishing the Judge Lyons review and the recommendations, after considerable investigation, contained in Sarah Atherton's report, published last July, to which I have referred at every stage—Sarah Atherton being the only Conservative Member of Parliament ever for Wrexham.

I doubt that the controversy when those protests are made will improve Mr Wallace's or the Government's standing with the public on the highly sensitive issue of sexual offences, but I have a deep concern that the reputation of the service justice system in the UK should not be sullied.

On Monday afternoon, I took part in an international forum organised by my friend Professor Eugene Fidell of Yale University, founder and former president of the National Institute of Military Justice in the United States. The forum meets regularly. On this occasion, we considered the way that sexual offences are dealt with in the Canadian military. This is a live issue in many jurisdictions. I had hoped that the United Kingdom would show the way, but I will remind the House of some of the UK statistics that were before the other place.

The Atherton committee interviewed many in search of evidence. Some 64% of the more than 4,000 servicewomen who submitted evidence to the committee stated that they had experienced sexual harassment, rape, bullying or discrimination while serving in the Armed Forces. Over the past five years, the average conviction rate for rape in civilian courts, from Ministry of Justice data, is 34%. Over the same five years, from using the data of the MoD, it is just 16%. The Minister told us that it was 15% for courts martial over the last six months. If you use Crown Prosecution Service data, the figures are even worse.

Baroness Goldie (Con): I thank the noble Lord for taking this point of correction. The statistic I gave him for cases of rape prosecuted in courts martial in the last six months shows a conviction rate of just under 50%.

Lord Thomas of Gresford (LD): Obviously, I misheard the noble Baroness. I will continue. As I said on Report, I am not aware of any murders committed in the UK by service personnel that have been tried by court martial. Of course, that could have happened only since 2006, when the novel change to concurrent jurisdiction was introduced. I have noted two cases of manslaughter arising from deaths at the Castlemartin range in west Wales, in live firing exercises, which involved the organisation of training activities, but I am not aware of any trials of sexual offences at court martial in the UK where the victim was a civilian. If there were any, I shudder to think of the effect on a civilian complainant of giving her evidence in intimate detail, against a serviceman, to a panel of uniformed officers, at a court martial.

Until now, the verdict of a court martial in such a case would have been by a simple majority, but I welcome the changes in this Bill that lead to a different situation. Imagine the difficulty of a junior service woman or man making a complaint of rape to her or his commanding officer, particularly if the alleged offender is senior to them in the chain of command, as is often the case. In addition to all the stresses and strains that already dissuade many women in civilian life from complaining, she, a servicewoman, has to face the effect on her career, an appearance before a board of senior officers, very low chances of conviction and the possibility that, in the event of an acquittal, the terms of her service will keep her in contact with her attacker. At least in a civilian court, the jury, to whom she would give her sensitive and difficult evidence, is 12 anonymous people drawn from the public. They will have no effect on her career and she is most unlikely ever to see them again—contrast that with giving evidence of sexual offences before a court martial.

Sir Robert Neill, with all his experience and wisdom, pointed out in the other place on Monday that the normal safeguards that apply in these cases in civilian courts are not yet available in the courts martial, in both the investigatory and procedural stages. Again, I draw the Minister's attention to the effect upon the recruitment and retention of women in the Armed Forces. Would you expose your daughter to the probability that she will be subject to sexual harassment and worse, without the protection of a satisfactory service justice system?

I listened to the debate in the other place, and my amendment in lieu has changes. Objection was made to the role ascribed to the Attorney-General. The Minister has made a similar objection in this House, and I have to admit that I had assumed that the Ministry of

Defence and the Members in another place appreciated the constitutional position of the Attorney-General. It is one of his functions to supervise the Director of Public Prosecutions and the Director of Service Prosecutions and to be answerable in Parliament for them and their decisions. Hence it was Judge Lyons' recommendation that the AG's consent should be sought for the trial by a court martial of murder, manslaughter, rape and serious sexual offences committed in the UK. I agreed with his position: it represents the correct status of the Attorney-General in this country.

However, if the consent of the Attorney-General is the problem, this amendment in lieu leaves decisions about trial venue in the hands of the Director of Public Prosecutions—but only after consultation with the Attorney-General. The DPP would naturally consult the DSP, but, as the Minister, Mr Leo Docherty, made clear on Monday evening, it is the DPP's decision in the end.

I say to the Conservative Benches that, if they vote against my amendment, they would be voting merely for the stubborn man in the alleyway, in Johnny Mercer's words. They would be voting against the views of the officials in the Ministry of Defence and the departmental Ministers at the time that this was first considered, against the leading recommendation—number 1—of Judge Lyons and, above all, against the passionate findings of the Conservative Member of Parliament and her cross-party committee. Sarah Atherton—the only women in history to have risen from the ranks of the Armed Forces to become a Member of the House of Commons—knows what she is talking about. I ask those opposite not to vote against this amendment. I beg to move.

Lord Morris of Aberavon (Lab): My Lords, I am disappointed that the Government are maintaining their opposition to civilianising the courts martial for serious cases, such as murder, manslaughter and rape. The conviction rate for rape alone is 16% in the military courts, as reflected in the remarks from Mr Johnny Mercer in the other place. The Minister has given certain other figures for the last six months. I am very interested in this. Perhaps she could give me the size of the sample when she is winding up? Perhaps we could have a bigger sample, perhaps of a year. I would have thought that these figures alone would cause concern that something was wrong.

Service personnel do not have the statutory protection that other people have when they are tried in ordinary criminal courts or the statutory protections that are embedded in law to ensure that, where there is a majority direction, it is made known, the numbers are made known, and everyone knows where they stand. Nothing of that kind happens in courts martial. According to the Minister on a previous occasion, in some cases—they may be small in number—a verdict of 2:1 is certainly not in conformity with modern criminal jurisprudence.

4.30 pm

It is more than five years since I expressed my concern following Sergeant Blackman's case in a number of debates which I initiated and which led to the Lyons review. I commend the Government for setting up that inquiry. Perhaps they should have listened to its conclusions as expressed by Mr Lyons.

I shall be very brief but I foresee that, before the next renewal of the Army Act, someone concerned with good governance in the Ministry of Defence will see the inevitable case for radical reform. I support the amendment moved by the noble Lord, Lord Thomas of Gresford. He is absolutely right that the Attorney-General supervises the Director of Public Prosecutions. I see no constitutional difficulty in that. If the amendment may be technically wrong, then perhaps we should have had some kind of provision to enable the situation in Scotland and Northern Ireland to be reflected accurately. I support the amendment.

Lord Burnett (LD): My Lords, I draw attention to my entries in the register of interests and declare that I had the honour to serve in the Royal Marines. I will make a short contribution to this debate. I have only recently discovered that Sir Richard Henriques has made mention of and quoted from speeches I and others made during the progress earlier this year of the now Overseas Operations (Service Personnel and Veterans) Act. I put on record my thanks to him for his thorough and compelling report.

I also support this amendment in the name of my noble friend Lord Thomas of Gresford, who has a wealth of knowledge and experience in these matters. If the Government remain unconvinced of the merits of Motion A1, they should commission further research into whether the hierarchical nature of service life is imported into the court martial system or if there is a perception that it is. In other words, are panel members influenced by the hierarchy's view or what they perceive is the hierarchy's view?

This concerned me in the Sergeant Blackman case; I played a minor role in the campaign to exonerate him. He served in 42 Commando Royal Marines, had an exemplary record and had been deployed on active service six times in Iraq and Afghanistan. This amounted to six six-month tours of intensive combat operations in seven years. This is not a complaint but an explanation. I always believed that the philosophy of a court martial was that the individual service man or woman should be tried by their peers. In other words, the panel should be comprised of individuals who had experienced the same horrors and dangers of the battlefield with which Sergeant Blackman was only too familiar. In his case, it was an allegation of murdering a mortally wounded enemy operator on the battlefield. The court martial conviction for murder was rightly quashed at the behest of the Criminal Cases Review Commission. A terrible miscarriage of justice was partly righted.

There were seven members of Sergeant Blackman's court martial panel, five of whom had very little or no experience of combat soldiering in the most dangerous, arduous and exhausting conditions. These conditions were exacerbated by being in mortal danger most of the time, in the full knowledge that at any time Sergeant Blackman or any of the Marines under his command could have set off an improvised explosive device which could have killed or maimed any one or more of them. Two members of that panel had shared that experience, and Sergeant Blackman was convicted by a vote of 5:2 This was an insufficient ratio for a civilian criminal court to convict.

[LORD BURNETT]

There are other disparities between court martials and civilian criminal court trials that I and others have mentioned in previous debates; they have already been aired here, in part. These disparities do not flatter the court martial system. The further research that I have suggested should also encompass service rivalry, battle fatigue—which can affect the strongest and bravest of men or women—the effects of provocation, and being in continuous mortal danger for months without a break, often in extreme weather conditions. It should also consider the impact of misogyny, sexism and racism in the court martial system, and whether civilian criminal courts would provide a more balanced and equitable system of justice.

Finally, in chapter 8 of Sir Richard's admirable review, headed, "Legal support and the Defence Representation Unit", he makes six recommendations, numbered 47 to 52 inclusive. I ask the Minister the following questions. First, have the Government accepted these recommendations? Secondly, will the Government consult on them? Thirdly, will there be a debate in this House on the results of that consultation? Finally, what is the Government's timetable for their implementation?

Lord Craig of Radley (CB): My Lords, I will speak to Motion B1 in my name. It was a great disappointment that the other place was not prepared to accept this House's well-supported amendment, originally proposed by the noble and learned Lord, Lord Mackay of Clashfern, and to which I readily added my name. With his vast and rightly respected experience, he considered that the Secretary of State should have a statutory duty of due regard for veteran affairs. The telling example of Gulf War syndrome was mentioned. Noble Lords will recall that the Government of the day were reluctant to see or treat this issue with the seriousness it seemed to deserve. It affected a considerable number of service and ex-service personnel who had served in Operation Granby in the first Gulf War of 1991.

A number of noble Lords, dismayed by the Government's decisions just to set up further studies, arranged an independent inquiry chaired pro bono by a distinguished Law Lord, Lord Lloyd of Berwick. He conducted a fair and exhaustive inquiry to which I, as Chief of the Defence Staff during the conflict, gave evidence. But no Government Minister was prepared to be interviewed, or even to attend any of the hearings. That was an example of impact on veterans that was not solvable at local level.

At Report, I quoted another example, that of the veterans of the Hong Kong Military Service Corps, whose long-outstanding case also could not be resolved at devolved or local-authority level. I understand that the MoD has passed this case back to the Home Office, but I hope that the MoD still sees it as a veteran case that deserves its continued interest and a responsibility to see it finally settled. It would be most unsatisfactory, when dealing with the concerns of veterans, for the MoD and the Secretary of State not to continue to be seen to be actively supportive of their veterans. A statutory requirement for the Secretary of State to pay due regard and be seen to discharge a duty of care for veterans seems more important than ever. Serving personnel, soon to be veterans, may well have been involved in live operations that, more than ever, are subject to active ministerial oversight and even direction. Looking to the future, assuming the media reports of hearing damage to soldiers testing the Ajax AFV to be true, this could become a veteran issue—an issue that needs a duty of care for all the veterans as a group, not just individually, where there might inevitably be differing outcomes causing lasting resentment.

This amendment therefore gives the Secretary of State time to consider his responsibility further and report to Parliament. As the amendment spells out, it requires the Secretary of State to detail

"the implications of not applying the same legal responsibility to have 'due regard' under the Armed Forces Covenant to central government as the Act requires of local authorities and other public bodies."

It has been argued that the Secretary of State believes that he and central government already bear this responsibility. Why, then, is there this reluctance to spell it out closely in statute?

The Minister in the other place made the particular point that, because the Secretary of State makes a report to Parliament annually, he is fully discharging his duty of care for veterans. But it is not just a moral duty; the Armed Forces Act 2011 made reporting annually a statutory requirement, so it seems to follow that "due regard to" should be enacted; otherwise, the statutory responsibility is confined just to reporting.

The Minister in the other place said that,

"responsibility for the actual delivery of nuts-and-bolts frontline services and their impact … rests at local level".—[*Official Report*, Commons, 6/12/21; col. 99.]

He made no mention of the heart of your Lordships' case, that there were some issues that could not be dealt with at local level. Why was this not considered? All he said was that the inclusion of central government was simply unnecessary; he did not explain why. As I have just mentioned, the MoD has passed the case that I cited on Report of the Hong Kong veteran to the Home Office; one central department having due regard has passed it directly to another. I rest my case.

Lord Thomas of Cwmgiedd (CB): My Lords, I entirely support what the noble and gallant Lord, Lord Craig of Radley, has just said, but I want to add a word on Motion A1. It is clear that the overwhelming majority of people with real experience of the criminal and military justice systems support that Motion A1. The Minister is quite right: the service justice system has improved enormously over the past few years, but there is a fundamental respect in which it is different—that is, that there is no trial by jury. Trial by jury is the essence of our system. It gives confidence to the victims, which is critical in the very serious crimes that we are considering, and it is a fundamental right of the defendant. We should not do anything to take those rights away or to undermine confidence; that is the fallacy in the Minister's argument.

Lord Alton of Liverpool (CB): My Lords, I intervene briefly to support the amendments in the name of the noble Lord, Lord Thomas of Gresford, so ably supported by the noble and learned Lord, Lord Morris, the noble

Lord, Lord Burnett, and my noble and learned friend. I have nothing usefully to add to what has been said by them in the context of Motion A1. They are huge authorities on this matter, and the House is right therefore to support them again and ask another place to think once more on that question.

I rise to support my noble and gallant friend Lord Craig of Radley on Motion B1, especially having spoken on this matter when we last considered it. He is right that some things cannot be settled at local level—and I say that as someone who has served in local government. Some things need to be settled centrally, and that should be spelled out in the Bill; that is so. He has made a compelling case as to why there should be some further consideration given to the duties that we have towards our armed servicemen and who has to implement those duties, specifically in the case of the Hong Kong ex-servicemen that was given as a very good example during Report and again by my noble and gallant friend.

The Minister has taken a great interest in this matter and knows that it concerns a very small number of people and that it is on a par with how we rightly dealt with the issue of the Gurkhas. We should do the same for these servants of the Crown, not least because of the developments in Hong Kong, where we have seen the destruction of democracy. Who would be more at risk than people who have served in our Armed Forces in Hong Kong?

If the noble Baroness cannot accept the amendment today and if it does not go back to another place, we will quite soon have before us the Nationality and Borders Bill. If she can do nothing else, she has heard what my noble and gallant friend has said about how this has now been referred back to the Home Office, which will have responsibility for that Bill. When the noble Baroness, Lady Goldie, replies for the Government tonight, she will have the opportunity to say to us whether included within the provisions of that Bill will be, as was reported in the media earlier this week, the possibility that this glaring oversight and injustice will be rectified in the course of that legislation. I hope that she will take the opportunity when she comes to reply to say whether that is being seriously considered by the Government and whether she is able to allay some of our concerns, at least on that count.

4.45 pm

Baroness Smith of Newnham (LD): My Lords, I rise to support both Motion A1 in the name of my noble friend Lord Thomas of Gresford and Motion B1 in the name of the noble and gallant Lord, Lord Craig of Radley.

As the noble Lord, Lord Alton of Liverpool, just pointed out, several noble and learned Lords and noble and gallant Lords have already articulated the case for Motion A1 very cogently. I do not propose to speak to that in any detail, because they have already made the case, as did the Member for Wrexham, Sarah Atherton, in the other place.

If there was only one Minister who was keen to keep service justice the way it is and for issues of murder, manslaughter, domestic violence, and so on, to be kept in the courts martial system, that suggests, as my noble friend Lord Thomas of Gresford pointed out, that the Minister perhaps does not share the same views as the Secretary of State. Clearly, it is not the job of your Lordships' House to persuade the Minister to come clean on her personal view; she is clearly speaking for the Government. However, if there is perhaps some difference of opinion within the MoD, might it be possible for the Minister to think again and for her to persuade Members of the other place to think again? The cases that have been put forward—the words of Johnny Mercer MP and the report brought forward by the Defence Committee of the House of Commons—are compelling.

I suggest that Motion B1 is in some way superior to what the Government are asking us not to agree with—that we do not go with the amendment that we voted on and approved on Report. At that stage, the amendment just talked about the Secretary of State, but that is slightly ambiguous. Which Secretary of State? The assumption implicit in that amendment was that it was the Secretary of State for Defence. However, on Report, the noble Viscount, Lord Brookeborough, pointed out that the situation was vital in Northern Ireland, and there it would not be necessarily be the Secretary of State for Defence that mattered so much as the Secretary of State for Northern Ireland. The new amendment makes clear the import of what we had intended in the first place, all the way back at Second Reading and in Committee, that central government should be brought within the purview of the Bill.

The Minister says that this is about ensuring that key policymakers have the right information. She seemed to imply that this related only to local government, housing associations, local health providers—that is, people providing health, education and welfare support that come under the Bill. But surely that relates also to central government. In particular, it relates to all parts of central government. It does not just relate to the Secretary of State for Defence, particularly if he is caught up some blind alley. It also relates to the Home Secretary. We have already heard about some aspects of what might appear to be issues related to the military being passed over to the Home Office. Surely it is not adequate for the Secretary of State for Defence to report annually to the other place if what we need is the Home Secretary to bear in mind the needs of veterans and service personnel, particularly those who served in Hong Kong, or maybe the Gurkhas.

There is a need for the Bill to apply to central government as well as to local government and other authorities. I urge the House to support Motion B1 as well as Motion A1.

Lord Coaker (Lab): My Lords, I support Amendments A1 and B1. I will not go into the legal arguments around Amendment A1: the noble Lord, Lord Thomas of Gresford, the noble and learned Lord, Lord Thomas of Cwmgiedd, and others have spoken about many of the legal reasons why this would be an improvement, and we wish the Government to think again on it. I say to the Chamber that review after review has said to the Government that the civilianisation of murder, manslaughter, rape and these charges would be of immense benefit. It is review after review after review; not just one review and then another review says something different, but review after review after review.

[Lord Coaker]

In what I thought were devasting comments in the other place—as the noble Lord, Lord Thomas of Gresford, pointed out—the Minister responsible for the delivery of these policies agreed with the amendment that was put. You sometimes wonder what parallel universe you live in when all the evidence and all the points put forward support the amendment, only for it to be resisted by the Government. I ask the Minister—who frankly even in her remarks today went further than she has in some of our other debates—to reflect on that. The reviews and now Johnny Mercer MP in the other place say that as well.

Can the Minister clarify the statistics for us? The statistics quoted by Johnny Mercer were 16% but, as the noble Lord, Lord Thomas, pointed out, the Minister quoted a much different figure. I think it was around 50%—to be fair, I cannot remember the exact figure. I think we would all be interested in this House in how that figure was arrived at, what the sample size was, and what length of time it was done over. This is an important amendment. I am very pleased to support Amendment A1, as outlined by the noble Lord, Lord Thomas of Gresford.

I ask the Minister: is there is any update on where we have got to with the defence-wide strategy for dealing with rape and serious sexual offences within the service justice system? Is there any further news about when we can expect that?

I also want to briefly say something about this. I say this as my last comment on these issues around the service justice system. Significant numbers of cases continue to be raised by Sarah Atherton and by many of the other members who continue to serve. We read about it in our newspapers. We need to reflect on the fact that case after case is brought forward. This would be a way for the Government to restore confidence in the system and in the way that these issues are dealt with.

In supporting the amendment from the noble and gallant Lord, Lord Craig of Radley, I point out to the Chamber that again this is something that the Royal British Legion sees as of immense importance and that needs to be done. It is something that would improve the situation.

Just recently, on 6 December, the Government published the draft statutory guidance for the covenant. It lists the responsibilities on healthcare authorities, the responsibilities on local authorities, the responsibilities on every single public body you could virtually think of except the Government themselves. I say to the Minister that I have never been convinced in any shape or form that the people of this country would believe that a covenant between the state and the people would exclude the national Government. I just do not believe that people, whatever the rights and wrongs of it, would understand that. The perception of it, apart from anything else, is something that undermines that.

I appreciate what the Government have done in the Bill in terms of placing a legal duty on everyone, but I wonder why it places a legal duty on everyone but the national Government themselves and I ask the Government to think again on that.

Baroness Goldie (Con): My Lords, first, I thank your Lordships for, as ever, interesting and thoughtful contributions on both issues being debated this afternoon, particularly Motions A1 and B1. I will first address the comments made in relation to Motion A1. By way of preface, it is worth noting that this matter was debated and decided in the other place by an authoritative and substantial majority. Notwithstanding that, I will endeavour in my remarks to engage your Lordships and repeat why the Government hold to the position they do. I am grateful for the further comments made.

Perhaps I should clarify to the noble Lord, Lord Thomas, who seemed to doubt my commitment to the matters of the service justice system, that I and the Government are convinced of the wisdom of retaining unqualified concurrent jurisdiction for murder, manslaughter and rape—I want to make that crystal clear. I remind your Lordships that, contrary to what some contributions indicated, that view is supported by a distinguished former High Court judge, Sir Richard Henriques.

I was also interested to note that remarks from a number of your Lordships with very senior and impressive legal backgrounds seemed to be addressed exclusively to England and Wales. With all respect, the service justice system that we all admire and revere has to extend across the whole of the UK and must reflect the different systems within it. Military justice must be universal across the UK and the proposal in the Bill achieves that end in a way in which the noble Lord's amendment does not.

Lord Thomas of Gresford (LD): Perhaps I might challenge the Minister on that. If the civil jurisdiction is to be used for an offence committed in Scotland or Northern Ireland, court martials then become immaterial—so there is no problem, as the Minister seems to think. This point has not been raised at any stage of the Bill until today. There is no problem if the ordinary courts of Scotland and Northern Ireland are to deal with offences which occur within that jurisdiction. The question of whether a person is in the military or not is then irrelevant; the offences will be dealt with as usual.

Baroness Goldie (Con): Yes, but with all respect, I say to the noble Lord that that is not the essence of the issue. The essence is instead how you create a service justice system which can operate across the United Kingdom and ensure that, when discussions take place with the appropriate civilian prosecutors, appropriate decisions are reached on the correct jurisdiction for the case. That might be, within the service justice system, convening in Scotland, but under the noble Lord's amendment there is clearly a desire to bias the whole service justice system in respect of England and Wales to the civilian system, and I am saying that that introduces a disparity or fracture of the United Kingdom service justice system. That is what the Government find unacceptable.

The noble Lord, Lord Burnett, raised an important point—

Lord Morris of Aberavon (Lab): If there is any technical difficulty regarding the extension of the jurisdiction to include Northern Ireland and Scotland,

surely it would not be beyond the wit of the Government, if they accepted the principle of civilianisation, to deal with that matter in an appropriate way.

Baroness Goldie (Con): I say to the noble and learned Lord that, as I understand it, the difficulty is that constitutionally we cannot extend this amendment to cover Scotland and Northern Ireland. That gets right to the heart of whether we have a service justice system for the United Kingdom, operating across it, or we do not. That is the difficulty with this amendment.

Turning to the point made by the noble Lord, Lord Burnett, on the Richard Henriques recommendations, I know he was particularly interested in a defence representation unit. In recognition of the remarks I made in Grand Committee when I undertook to keep the House informed of progress on these Henriques matters, I explained then and when the amendment was tabled on Report that we have to analyse and assess these recommendations. We are not yet sure how they could be implemented and what measures would be necessary to implement them, but I am very happy to repeat my assurance to the noble Lord that I will keep the Chamber informed of progress.

5 pm

I can add very little more on this issue in Motion A1. The Government's position is clear; I have explained why we hold it. I accept that a number of your Lordships disagree but, in support of what we are doing, I think the view of a former High Court judge such as Sir Richard Henriques ought to carry some weight and deserves some attention.

The noble Lord, Lord Coaker, raised the defence-wide strategy in respect of serious sexual crimes and offences. My colleague the Minister for Defence People and Veterans is taking that forward with purpose and resolve. I will find out the timetable and undertake to write to the noble Lord.

Returning to Motion B1 in the name of the noble and gallant Lord, Lord Craig, I thank noble Lords for their contributions. I remind the House that this issue was debated and decided authoritatively in the other place by a substantial majority, but I have endeavoured in my initial speech and my remarks just now to explain why we want the new covenant obligations. After all, what is currently happening in the Bill—improving the covenant and giving parts of it legal effect—is all down to the Government's commitment to the covenant and desire to support our service personnel and veterans with reference, as I explained at an earlier stage of proceedings, to what our service personnel want. They are the people we have listened to and they identified the three specific functions in the Bill of housing, health and education. As I said, the covenant is not a legal obligation per se but a concept. That is why we have had to use a statutory measure to start applying it in a legal context to particular areas of public service delivery.

The reason why the Government do not wish to expand that at the moment is not due to some sinister, covert or malign purpose. We want to see how this works in practice—let the measures bed down, assess them and see how they work. Very importantly, if some feature is not working, we want to identify it and what we do about it. That is a sensible, practical way forward before proceeding with any further enlargement of the legal duty.

That is the Government's position. I accept that a number of your Lordships do not agree with it, but that is why we are proceeding as we are. I think noble Lords would accept that, overall, the Armed Forces Bill is a very important measure, not just for the legal constitution of our Armed Forces before the end of this year but—

Lord Craig of Radley (CB): Before the Minister sits down, the big issue that came from this House is where local authorities cannot deal with the veteran issue. We produced some examples of that; it was not discussed at all in the other place. Could she explain why? This is not acceptable at this stage, bearing in mind that, in effect, it is already being carried out. I do not see why there should be any difficulty in incorporating the Secretary of State "having due regard" as the form of words, to show that it is a matter for central government. The veteran issue cannot be dealt with at local level.

Baroness Goldie (Con): Central government, as I have indicated previously, is bound by a wide spectrum of obligations. Some of these obligations exist because of parliamentary and government obligations, some exist because the MoD is an employer of the Armed Forces, and some exist because, under the covenant—which is a concept, as I have said—we want to do the best we can.

What I did explain was that to make this work—I hope it is clear from the text of the Bill in relation to the three functions we have identified—you need to have an identified body and detailed functions. That is why the Government feel that it is premature to take this step at this time. I appreciate that the noble and gallant Lord disagrees with that interpretation. He feels that the Government should absolutely accept that they are bound under the covenant. I would say that they are bound under the covenant as a concept in terms of a moral responsibility, and they are certainly accountable not just to Parliament, as they rightly should be, but to their own Armed Forces and to their veterans, and to public opinion.

I have tried to explain why we feel that to take this step at this stage is both precipitate and premature. I appreciate that there is not agreement on that view, and that is what democracy exists to serve. But I have endeavoured to explain to your Lordships the position of the Government and why they hold to their views in these circumstances. Again, I respectfully ask the noble Lords to withdraw their Motions A1 and B1.

Lord Morris of Aberavon (Lab): Before the Minister sits down—I hope she will forgive me—I asked specifically about the size of the sample for rape cases, an issue which my noble friend Lord Coaker also raised. The figures are quite different and much more encouraging than those given by Mr Johnny Mercer in the other place. Can the Minister tell me—I did give notice of this in the course of my short remarks—what is the size of the sample?

Baroness Goldie (Con): I have to say to the noble and learned Lord that I am afraid I do not have information available. I gave him the statistics provided to me, but I will undertake to ascertain that information and write to him.

Lord Thomas of Gresford (LD): My Lords, I will pursue that for a moment. The number of cases heard in courts martial is probably fewer than 10 for sexual offences, or at least fewer than 20. I cannot imagine that in six months, we deal with more than four or five cases, but no doubt we will be told in due course. Over a five-year period, the figure is 16% for convictions, as opposed to the civil conviction rate of 34%—shocking as that conviction rate is in any event.

On the point about Scotland and Northern Ireland—never raised before Monday night in the course of this Bill, either here or in the other place—the principle that this amendment sets down is quite simple:

"Guidance … must provide that where offences of murder, manslaughter, domestic violence, child abuse, rape or sexual assault with penetration are alleged to have been committed in the United Kingdom, any charges brought against a person subject to service law shall normally be tried in a civilian court"—

it does not say "in the Crown Court" in this country—

"unless by reason of the circumstances … the Director of Public Prosecutions, after consultation with the Attorney General, directs trial by court martial."

If it is necessary to cover that by putting "after consultation with the Lord Advocate in Scotland" or whoever is the chief authority in Northern Ireland, that can be done in 30 seconds—if you let me loose for that period of time.

No answer has been given, and we are faced with what Johnny Mercer said:

"there is one individual who is refusing to back down from the alleyway".—[*Official Report*, Commons, 6/12/21; col. 105.]

This is not proper policy for the Conservative Party. It will face, as a party, the complaints of people who have been subjected to sexual violence but whose cases have not been upheld. It will arise, and it will be to the advantage of other parties. So, I plead that the amendment be supported in this case. I beg to move.

5.10 pm

Division on Amendment A1

Contents 205; Not-Contents 183.

Amendment A1 agreed.

Division No. 1

CONTENTS

Adams of Craigielea, B.
Addington, L.
Adonis, L.
Alderdice, L.
Alton of Liverpool, L.
Armstrong of Hill Top, B.
Bach, L.
Bakewell of Hardington Mandeville, B.
Barker, B.
Bassam of Brighton, L.
Beith, L.
Benjamin, B.
Bennett of Manor Castle, B.
Berkeley, L.
Birt, L.
Blake of Leeds, B.
Blower, B.
Blunkett, L.
Boateng, L.
Bonham-Carter of Yarnbury, B.
Bowles of Berkhamsted, B.
Bradley, L.
Bradshaw, L.
Brinton, B.
Brown of Eaton-under-Heywood, L.
Browne of Ladyton, L.
Bruce of Bennachie, L.
Bull, B.
Burnett, L.
Burt of Solihull, B.
Butler of Brockwell, L.
Butler-Sloss, B.
Campbell of Pittenweem, L.
Campbell of Surbiton, B.
Campbell-Savours, L.
Carlile of Berriew, L.
Carter of Coles, L.
Cashman, L.
Chakrabarti, B.
Chandos, V.
Chapman of Darlington, B.
Chartres, L.
Chidgey, L.
Clancarty, E.
Clement-Jones, L.
Coaker, L.
Collins of Highbury, L.
Corston, B.
Craigavon, V.
Crawley, B.
Davies of Brixton, L.
Davies of Oldham, L.
Desai, L.
Dholakia, L.
Donaghy, B.
D'Souza, B.
Dubs, L.
Falconer of Thoroton, L.
Falkner of Margravine, B.
Faulkner of Worcester, L.
Featherstone, B.
Foster of Bath, L.
Foulkes of Cumnock, L.
Fox, L.
Gale, B.
Garden of Frognal, B.
German, L.
Goddard of Stockport, L.
Golding, B.
Grantchester, L.
Grender, B.
Griffiths of Burry Port, L.
Grocott, L.
Hamwee, B.
Hannay of Chiswick, L.
Harris of Haringey, L.
Harris of Richmond, B.
Hayman of Ullock, B.
Hayman, B.
Hayter of Kentish Town, B.
Healy of Primrose Hill, B.
Hendy, L.
Henig, B.
Hollins, B.
Hope of Craighead, L.
Howarth of Newport, L.
Humphreys, B.
Hussain, L.
Hussein-Ece, B.
Jay of Paddington, B.
Jolly, B.
Jones of Cheltenham, L.
Jones of Moulsecoomb, B.
Jones of Whitchurch, B.
Jones, L.
Jordan, L.
Kennedy of Cradley, B.
Kennedy of Southwark, L.
Khan of Burnley, L.
Kidron, B.
Kilclooney, L.
Knight of Weymouth, L.
Kramer, B.
Lawrence of Clarendon, B.
Lea of Crondall, L.
Lennie, L.
Liddell of Coatdyke, B.
Liddle, L.
Lipsey, L.
Lister of Burtersett, B.
Livingston of Parkhead, L.
Londesborough, L.
Loomba, L.
Low of Dalston, L.
Mackenzie of Framwellgate, L.
Macpherson of Earl's Court, L.
Mallalieu, B.
Marks of Henley-on-Thames, L.
Masham of Ilton, B.
Maxton, L.
McAvoy, L.
McDonald of Salford, L.
McIntosh of Hudnall, B.
McNally, L.
McNicol of West Kilbride, L.
Meacher, B.
Merron, B.
Monks, L.
Morgan of Huyton, B.
Morris of Aberavon, L.
Morris of Yardley, B.
Newby, L.
Northover, B.
Oates, L.
O'Loan, B.
Paddick, L.
Palmer of Childs Hill, L.
Parminter, B.
Pendry, L.
Pinnock, B.
Pitkeathley, B.
Ponsonby of Shulbrede, L.
Prashar, B.
Quin, B.
Ramsay of Cartvale, B.
Ramsbotham, L.
Randerson, B.
Razzall, L.
Redesdale, L.
Rennard, L.
Ritchie of Downpatrick, B.
Roberts of Llandudno, L.
Rooker, L.
Rosser, L.
Rowe-Beddoe, L.
Sandwich, E.
Scriven, L.
Sharkey, L.
Sheehan, B.
Sherlock, B.
Shipley, L.
Smith of Basildon, B.
Smith of Finsbury, L.
Smith of Newnham, B.
Snape, L.
Stansgate, V.
Stirrup, L.
Stoneham of Droxford, L.
Storey, L.
Strasburger, L.
Stuart of Edgbaston, B.
Stunell, L.
Suttie, B.
Taylor of Bolton, B.

Taylor of Goss Moor, L.
Teverson, L.
Thomas of Cwmgiedd, L.
Thomas of Gresford, L.
Thomas of Winchester, B.
Thornhill, B.
Thornton, B.
Tope, L.
Touhig, L.
Triesman, L.
Tunnicliffe, L.
Turnberg, L.
Tyler of Enfield, B.
Uddin, B.
Wallace of Saltaire, L.
Walmsley, B.
Warwick of Undercliffe, B.
Watson of Invergowrie, L.
Watts, L.
West of Spithead, L.
Wheatcroft, B.
Wheeler, B.
Whitaker, B.
Whitty, L.
Wigley, L.
Wilcox of Newport, B.
Willis of Knaresborough, L.
Wood of Anfield, L.
Woolf, L.
Young of Norwood Green, L.
Young of Old Scone, B.

NOT CONTENTS

Agnew of Oulton, L.
Ahmad of Wimbledon, L.
Altmann, B.
Altrincham, L.
Anelay of St Johns, B.
Arbuthnot of Edrom, L.
Ashton of Hyde, L.
Astor of Hever, L.
Attlee, E.
Balfe, L.
Barran, B.
Bellingham, L.
Benyon, L.
Bertin, B.
Black of Brentwood, L.
Blackwood of North Oxford, B.
Bloomfield of Hinton Waldrist, B.
Borwick, L.
Bourne of Aberystwyth, L.
Brady, B.
Bridges of Headley, L.
Brougham and Vaux, L.
Browne of Belmont, L.
Brownlow of Shurlock Row, L.
Buscombe, B.
Caine, L.
Caithness, E.
Callanan, L.
Carrington of Fulham, L.
Cavendish of Little Venice, B.
Chisholm of Owlpen, B.
Choudrey, L.
Clarke of Nottingham, L.
Colgrain, L.
Colville of Culross, V.
Cormack, L.
Courtown, E.
Couttie, B.
Craig of Radley, L.
Crathorne, L.
Cruddas, L.
Davidson of Lundin Links, B.
Davies of Gower, L.
Deighton, L.
Dobbs, L.
Dodds of Duncairn, L.
Duncan of Springbank, L.
Dundee, E.
Dunlop, L.
Eccles of Moulton, B.
Eccles, V.
Empey, L.
Evans of Bowes Park, B.
Fairhead, B.
Fall, B.
Farmer, L.
Faulks, L.
Fleet, B.
Flight, L.
Fookes, B.
Foster of Oxton, B.
Framlingham, L.
Frost, L.
Gadhia, L.
Garnier, L.
Geddes, L.
Gilbert of Panteg, L.
Godson, L.
Gold, L.
Goldie, B.
Goldsmith of Richmond Park, L.
Goodlad, L.
Greenhalgh, L.
Griffiths of Fforestfach, L.
Grimstone of Boscobel, L.
Hailsham, V.
Hamilton of Epsom, L.
Harding of Winscombe, B.
Harlech, L.
Haselhurst, L.
Hayward, L.
Henley, L.
Herbert of South Downs, L.
Hill of Oareford, L.
Hodgson of Abinger, B.
Hodgson of Astley Abbotts, L.
Holmes of Richmond, L.
Hooper, B.
Horam, L.
Howard of Rising, L.
Howe, E.
Howell of Guildford, L.
Hunt of Wirral, L.
James of Blackheath, L.
Jenkin of Kennington, B.
Jopling, L.
Kamall, L.
Keen of Elie, L.
King of Bridgwater, L.
Kirkham, L.
Kirkhope of Harrogate, L.
Lamont of Lerwick, L.
Lancaster of Kimbolton, L.
Lang of Monkton, L.
Lansley, L.
Leigh of Hurley, L.
Lexden, L.
Lilley, L.
Lingfield, L.
Liverpool, E.
Lucas, L.
Mann, L.
Manzoor, B.
Marland, L.
Maude of Horsham, L.
Mawson, L.
McCrea of Magherafelt and Cookstown, L.
McInnes of Kilwinning, L.
McIntosh of Pickering, B.
Mobarik, B.
Montrose, D.
Morgan of Cotes, B.
Morris of Bolton, B.
Moylan, L.
Naseby, L.
Nash, L.
Neville-Jones, B.
Neville-Rolfe, B.
Noakes, B.
Northbrook, L.
Norton of Louth, L.
O'Shaughnessy, L.
Parkinson of Whitley Bay, L.
Patel, L.
Patten of Barnes, L.
Patten, L.
Pidding, B.
Polak, L.
Popat, L.
Price, L.
Randall of Uxbridge, L.
Reay, L.
Redfern, B.
Ribeiro, L.
Ridley, V.
Risby, L.
Robathan, L.
Rock, B.
Sanderson of Welton, B.
Sandhurst, L.
Sarfraz, L.
Sassoon, L.
Sater, B.
Scott of Bybrook, B.
Seccombe, B.
Selkirk of Douglas, L.
Shackleton of Belgravia, B.
Sharpe of Epsom, L.
Sheikh, L.
Sherbourne of Didsbury, L.
Shinkwin, L.
Smith of Hindhead, L.
Spencer of Alresford, L.
Sterling of Plaistow, L.
Stewart of Dirleton, L.
Suri, L.
Taylor of Holbeach, L.
Trefgarne, L.
Trenchard, V.
True, L.
Tugendhat, L.
Vaizey of Didcot, L.
Vaux of Harrowden, L.
Vere of Norbiton, B.
Wasserman, L.
Wei, L.
Wharton of Yarm, L.
Willetts, L.
Williams of Trafford, B.
Wolfson of Tredegar, L.
Wyld, B.
Young of Cookham, L.
Younger of Leckie, V.

Motion B

Moved by ***Baroness Goldie***

That this House do not insist on its Amendment 2, to which the Commons have disagreed for their Reason 2A.

2A: Because the Commons do not consider the addition of the Secretary of State as a specified person to be necessary to address any disparity in the delivery of core services across the United Kingdom, or otherwise to achieve the aims of the Bill.

Baroness Goldie (Con): I beg to move.

Motion B1 (as an amendment to Motion B)

Moved by ***Lord Craig of Radley***

At end insert ", and do propose Amendment 2B in lieu—

2B: Page 18, line 28, at end insert—

"343AG Section 343AF: report

The Secretary of State must lay a report before each House of Parliament no later than six months after the day on which the Armed Forces Act 2021 is passed detailing the implications of not applying the same legal responsibility to have "due regard" under the Armed Forces Covenant to central government as the Act requires of local authorities and other public bodies.""

Lord Craig of Radley (CB): I beg to move.

The Deputy Speaker (Lord Duncan of Springbank) (Con): The Question is that Motion B1 be agreed to. I am content to have an electronic Division to settle this. I instruct the clerks to plug in the machine.

5.29 pm

Division on Motion B1

Contents 215; Not-Contents 173.

Motion B1 agreed.

Division No. 2

CONTENTS

Adams of Craigielea, B.
Addington, L.
Adonis, L.
Alderdice, L.
Alton of Liverpool, L.
Armstrong of Hill Top, B.
Austin of Dudley, L.
Bach, L.
Bakewell of Hardington Mandeville, B.
Barker, B.
Bassam of Brighton, L.
Beith, L.
Benjamin, B.
Bennett of Manor Castle, B.
Berkeley, L.
Best, L.
Birt, L.
Blake of Leeds, B.
Blower, B.
Blunkett, L.
Boateng, L.
Bonham-Carter of Yarnbury, B.
Bowles of Berkhamsted, B.
Bradley, L.
Bradshaw, L.
Brinton, B.
Brooke of Alverthorpe, L.
Brown of Eaton-under-Heywood, L.
Browne of Belmont, L.
Browne of Ladyton, L.
Bruce of Bennachie, L.
Bull, B.
Burnett, L.
Burt of Solihull, B.
Butler of Brockwell, L.
Butler-Sloss, B.
Campbell of Pittenweem, L.
Campbell of Surbiton, B.
Campbell-Savours, L.
Carlile of Berriew, L.
Carlisle, Bp.
Carter of Coles, L.
Cashman, L.
Chakrabarti, B.
Chandos, V.
Chapman of Darlington, B.
Chartres, L.
Chidgey, L.
Clancarty, E.
Clement-Jones, L.
Coaker, L.
Collins of Highbury, L.
Colville of Culross, V.
Cork and Orrery, E.
Corston, B.
Craig of Radley, L.
Craigavon, V.
Crawley, B.
Davies of Brixton, L.
Davies of Oldham, L.
Desai, L.
Dholakia, L.
Dodds of Duncairn, L.
Donaghy, B.
D'Souza, B.
Dubs, L.
Erroll, E.
Falconer of Thoroton, L.
Falkner of Margravine, B.
Faulkner of Worcester, L.
Featherstone, B.
Foster of Bath, L.
Foulkes of Cumnock, L.
Fowler, L.
Fox, L.
Gale, B.
Garden of Frognal, B.
Goddard of Stockport, L.
Golding, B.
Grantchester, L.
Grender, B.
Griffiths of Burry Port, L.
Grocott, L.
Hamwee, B.
Hannay of Chiswick, L.
Harris of Richmond, B.
Hayman of Ullock, B.
Hayter of Kentish Town, B.
Healy of Primrose Hill, B.
Henig, B.
Hope of Craighead, L.
Howarth of Newport, L.
Humphreys, B.
Hussain, L.
Hussein-Ece, B.
Jay of Paddington, B.
Jolly, B.
Jones of Cheltenham, L.
Jones of Moulsecoomb, B.
Jones of Whitchurch, B.
Jones, L.
Jordan, L.
Kennedy of Cradley, B.
Kennedy of Southwark, L.
Kennedy of The Shaws, B.
Khan of Burnley, L.
Kidron, B.
Knight of Weymouth, L.
Kramer, B.
Lawrence of Clarendon, B.
Lennie, L.
Liddell of Coatdyke, B.
Liddle, L.
Lipsey, L.
Lister of Burtersett, B.
Londesborough, L.
Loomba, L.
Low of Dalston, L.
Lytton, E.
Mackenzie of Framwellgate, L.
Macpherson of Earl's Court, L.
Mallalieu, B.
Mann, L.
Marks of Henley-on-Thames, L.
Masham of Ilton, B.
Maxton, L.
McAvoy, L.
McCrea of Magherafelt and Cookstown, L.
McIntosh of Hudnall, B.
McNally, L.
McNicol of West Kilbride, L.
Meacher, B.
Merron, B.
Monks, L.
Morgan of Huyton, B.
Morris of Yardley, B.
Morrow, L.
Newby, L.
Northover, B.
Oates, L.
O'Loan, B.
Osamor, B.
Paddick, L.
Parminter, B.
Pinnock, B.
Pitkeathley, B.
Ponsonby of Shulbrede, L.
Prashar, B.
Quin, B.
Ramsay of Cartvale, B.
Ramsbotham, L.
Randerson, B.
Razzall, L.
Redesdale, L.
Reid of Cardowan, L.
Rennard, L.
Ritchie of Downpatrick, B.
Roberts of Llandudno, L.
Rogan, L.
Rooker, L.
Rosser, L.
Rowe-Beddoe, L.
Russell of Liverpool, L.
Sandwich, E.
Scriven, L.
Sharkey, L.
Sheehan, B.
Sherlock, B.
Shipley, L.
Smith of Basildon, B.
Smith of Finsbury, L.
Smith of Newnham, B.
Snape, L.
Stansgate, V.
Stirrup, L.
Storey, L.
Strasburger, L.
Stuart of Edgbaston, B.
Stunell, L.
Suttie, B.
Taylor of Bolton, B.
Taylor of Goss Moor, L.
Teverson, L.
Thomas of Cwmgiedd, L.
Thomas of Gresford, L.
Thomas of Winchester, B.
Thornhill, B.
Thornton, B.
Tope, L.
Touhig, L.
Trefgarne, L.
Triesman, L.
Truscott, L.
Tunnicliffe, L.
Turnberg, L.
Tyler of Enfield, B.
Uddin, B.
Vaux of Harrowden, L.
Wallace of Saltaire, L.
Walmsley, B.
Walney, L.
Warwick of Undercliffe, B.
Watson of Invergowrie, L.
Watts, L.
West of Spithead, L.
Wheeler, B.
Whitaker, B.
Whitty, L.
Wigley, L.
Wilcox of Newport, B.
Willis of Knaresborough, L.
Wood of Anfield, L.
Woolf, L.
Young of Norwood Green, L.
Young of Old Scone, B.

NOT CONTENTS

Agnew of Oulton, L.
Ahmad of Wimbledon, L.
Altmann, B.
Altrincham, L.
Anelay of St Johns, B.
Arbuthnot of Edrom, L.
Ashton of Hyde, L.
Astor of Hever, L.
Attlee, E.
Balfe, L.
Barran, B.
Bellingham, L.
Benyon, L.
Bertin, B.
Black of Brentwood, L.
Blackwood of North Oxford, B.
Bloomfield of Hinton Waldrist, B.
Borwick, L.
Bourne of Aberystwyth, L.
Brady, B.
Bridges of Headley, L.
Brougham and Vaux, L.
Brownlow of Shurlock Row, L.
Buscombe, B.
Caine, L.
Caithness, E.
Callanan, L.
Carrington of Fulham, L.
Chisholm of Owlpen, B.
Choudrey, L.
Clarke of Nottingham, L.
Colgrain, L.
Cormack, L.
Courtown, E.
Couttie, B.
Crathorne, L.
Cruddas, L.
Davies of Gower, L.
Deighton, L.
Dobbs, L.
Duncan of Springbank, L.
Dundee, E.
Dunlop, L.
Eccles, V.
Empey, L.
Evans of Bowes Park, B.
Fairhead, B.
Fall, B.
Fleet, B.
Flight, L.
Fookes, B.
Foster of Oxton, B.
Framlingham, L.
Frost, L.
Gadhia, L.

Garnier, L.
Geddes, L.
Gilbert of Panteg, L.
Godson, L.
Gold, L.
Goldie, B.
Goldsmith of Richmond Park, L.
Goodlad, L.
Greenhalgh, L.
Griffiths of Fforestfach, L.
Grimstone of Boscobel, L.
Hailsham, V.
Hamilton of Epsom, L.
Harding of Winscombe, B.
Harlech, L.
Haselhurst, L.
Hayward, L.
Henley, L.
Herbert of South Downs, L.
Hill of Oareford, L.
Hodgson of Abinger, B.
Hodgson of Astley Abbotts, L.
Holmes of Richmond, L.
Hooper, B.
Horam, L.
Howard of Rising, L.
Howe, E.
Howell of Guildford, L.
Hunt of Wirral, L.
James of Blackheath, L.
Jenkin of Kennington, B.
Jopling, L.
Kamall, L.
Keen of Elie, L.
King of Bridgwater, L.
Kinnoull, E.
Kirkham, L.
Kirkhope of Harrogate, L.
Lamont of Lerwick, L.
Lancaster of Kimbolton, L.
Lang of Monkton, L.
Lansley, L.
Leigh of Hurley, L.
Lexden, L.
Lilley, L.
Lingfield, L.
Liverpool, E.
Livingston of Parkhead, L.
Lucas, L.
Manzoor, B.
Marland, L.
Maude of Horsham, L.
McDonald of Salford, L.
McInnes of Kilwinning, L.
McIntosh of Pickering, B.
Mobarik, B.
Montrose, D.
Morgan of Cotes, B.
Morris of Bolton, B.
Moylan, L.
Naseby, L.
Nash, L.
Neville-Jones, B.
Neville-Rolfe, B.
Nicholson of Winterbourne, B.
Noakes, B.
Northbrook, L.
Norton of Louth, L.
O'Shaughnessy, L.
Parkinson of Whitley Bay, L.
Patel, L.
Patten of Barnes, L.
Patten, L.
Pidding, B.
Polak, L.
Popat, L.
Price, L.
Randall of Uxbridge, L.
Reay, L.
Redfern, B.
Ribeiro, L.
Ridley, V.
Robathan, L.
Rock, B.
Sanderson of Welton, B.
Sandhurst, L.
Sarfraz, L.
Sassoon, L.
Sater, B.
Scott of Bybrook, B.
Seccombe, B.
Selkirk of Douglas, L.
Shackleton of Belgravia, B.
Sharpe of Epsom, L.
Sheikh, L.
Sherbourne of Didsbury, L.
Shinkwin, L.
Smith of Hindhead, L.
Spencer of Alresford, L.
Sterling of Plaistow, L.
Stewart of Dirleton, L.
Strathclyde, L.
Suri, L.
Taylor of Holbeach, L.
Trenchard, V.
True, L.
Tugendhat, L.
Vaizey of Didcot, L.
Vere of Norbiton, B.
Wasserman, L.
Wei, L.
Wharton of Yarm, L.
Willetts, L.
Williams of Trafford, B.
Wolfson of Tredegar, L.
Wyld, B.
Young of Cookham, L.
Younger of Leckie, V.

Police, Crime, Sentencing and Courts Bill

Report (1st Day)

5.45 pm

Amendment 1

Moved by ***Lord Wolfson of Tredegar***

1: After Clause 2, insert the following new Clause—

"Required life sentence for manslaughter of emergency worker

(1) The Sentencing Code is amended in accordance with subsections (2) to (15).

(2) In section 177 (youth rehabilitation orders), in subsection (3)(b)(i), after "258" insert "or 258A".

(3) In section 221 (overview of Part 10), in subsection (2)(b), for "section 258" substitute "sections 258 and 258A".

(4) In section 249 (sentence of detention under section 250), in subsection (2)(a), for "section 258" substitute "sections 258 and 258A".

(5) In section 255 (extended sentence of detention), in subsection (1)(d), after "258(2)" insert "or 258A(2)".

(6) After section 258 insert—

"258A Required sentence of detention for life for manslaughter of emergency worker

(1) This section applies where—

(a) a person aged under 18 is convicted of a relevant offence,

(b) the offence was committed—

(i) when the person was aged 16 or over, and

(ii) on or after the relevant commencement date, and

(c) the offence was committed against an emergency worker acting in the exercise of functions as such a worker.

(2) The court must impose a sentence of detention for life under section 250 unless the court is of the opinion that there are exceptional circumstances which—

(a) relate to the offence or the offender, and

(b) justify not doing so.

(3) For the purposes of subsection (1)(c) the circumstances in which an offence is to be taken as committed against a person acting in the exercise of functions as an emergency worker include circumstances where the offence takes place at a time when the person is not at work but is carrying out functions which, if done in work time, would have been in the exercise of functions as an emergency worker.

(4) In this section "relevant offence" means the offence of manslaughter, but does not include—

(a) manslaughter by gross negligence, or

(b) manslaughter mentioned in section 2(3) or 4(1) of the Homicide Act 1957 or section 54(7) of the Coroners and Justice Act 2009 (partial defences to murder).

(5) In this section—

"emergency worker" has the meaning given by section 68;

"relevant commencement date" means the date on which section (Required life sentence for manslaughter of emergency worker) of the Police, Crime, Sentencing and Courts Act 2021 (required life sentence for manslaughter of emergency worker) comes into force.

(6) An offence the sentence for which is imposed under this section is not to be regarded as an offence the sentence for which is fixed by law.

(7) Where an offence is found to have been committed over a period of 2 or more days, or at some time during a period of 2 or more days, it must be taken for the purposes of subsection (1)(b) to have been committed on the last of those days."

(7) In section 267 (extended sentence of detention in a young offender institution), in subsection (1)(d), for "or 274" substitute ", 274 or 274A".

(8) In section 272 (offences other than murder), in subsection (2)(b), for "or 274" substitute ", 274 or 274A".

(9) After section 274 insert—

"274A Required sentence of custody for life for manslaughter of emergency worker

(1) This section applies where—

(a) a person aged 18 or over but under 21 is convicted of a relevant offence,

(b) the offence was committed—

(i) when the person was aged 16 or over, and

(ii) on or after the relevant commencement date, and

(c) the offence was committed against an emergency worker acting in the exercise of functions as such a worker.

(2) The court must impose a sentence of custody for life under section 272 unless the court is of the opinion that there are exceptional circumstances which—

(a) relate to the offence or the offender, and

(b) justify not doing so.

(3) For the purposes of subsection (1)(c) the circumstances in which an offence is to be taken as committed against a person acting in the exercise of functions as an emergency worker include circumstances where the offence takes place at a time when the person is not at work but is carrying out functions which, if done in work time, would have been in the exercise of functions as an emergency worker.

(4) In this section "relevant offence" means the offence of manslaughter, but does not include—

(a) manslaughter by gross negligence, or

(b) manslaughter mentioned in section 2(3) or 4(1) of the Homicide Act 1957 or section 54(7) of the Coroners and Justice Act 2009 (partial defences to murder).

(5) In this section—

"emergency worker" has the meaning given by section 68;

"relevant commencement date" means the date on which section (Required life sentence for manslaughter of emergency worker) of the Police, Crime, Sentencing and Courts Act 2021 (required life sentence for manslaughter of emergency worker) comes into force.

(6) An offence the sentence for which is imposed under this section is not to be regarded as an offence the sentence for which is fixed by law.

(7) Where an offence is found to have been committed over a period of 2 or more days, or at some time during a period of 2 or more days, it must be taken for the purposes of subsection (1)(b) to have been committed on the last of those days."

(10) In section 280 (extended sentence of imprisonment), in subsection (1)(d), for "or 285" substitute ", 285 or 285A".

(11) After section 285 insert—

"285A Required life sentence for manslaughter of emergency worker

(1) This section applies where—

(a) a person aged 21 or over is convicted of a relevant offence,

(b) the offence was committed—

(i) when the person was aged 16 or over, and

(ii) on or after the relevant commencement date, and

(c) the offence was committed against an emergency worker acting in the exercise of functions as such a worker.

(2) The court must impose a sentence of imprisonment for life unless the court is of the opinion that there are exceptional circumstances which—

(a) relate to the offence or the offender, and

(b) justify not doing so.

(3) For the purposes of subsection (1)(c) the circumstances in which an offence is to be taken as committed against a person acting in the exercise of functions as an emergency worker include circumstances where the offence takes place at a time when the person is not at work but is carrying out functions which, if done in work time, would have been in the exercise of functions as an emergency worker.

(4) In this section "relevant offence" means the offence of manslaughter, but does not include—

(a) manslaughter by gross negligence, or

(b) manslaughter mentioned in section 2(3) or 4(1) of the Homicide Act 1957 or section 54(7) of the Coroners and Justice Act 2009 (partial defences to murder).

(5) In this section—

"emergency worker" has the meaning given by section 68;

"relevant commencement date" means the date on which section (Required life sentence for manslaughter of emergency worker) of the Police, Crime, Sentencing and Courts Act 2021 (required life sentence for manslaughter of emergency worker) comes into force.

(6) An offence the sentence for which is imposed under this section is not to be regarded as an offence the sentence for which is fixed by law.

(7) Where an offence is found to have been committed over a period of 2 or more days, or at some time during a period of 2 or more days, it must be taken for the purposes of subsection (1)(b) to have been committed on the last of those days."

(12) In section 329 (conversion of sentence of detention to sentence of imprisonment), in subsection (7)(a), after "258" insert "or 258A".

(13) In section 399 (mandatory sentences), in paragraph (b)(i)—

(a) for "258, 274 or 285" substitute "258, 258A, 274, 274A, 285 or 285A";

(b) omit "dangerous".

(14) In section 417 (commencement of Schedule 22), in subsection (3)(d), for "and 274" substitute ", 274 and 274A".

(15) In Schedule 22 (amendments of the Sentencing Code etc)—

(a) after paragraph 59 insert—

"59A_ In section 285A (required life sentence for manslaughter of emergency worker), in subsection (1)(a), for "21" substitute "18".";

(b) in paragraph 73(a)(ii), after "274" insert ", 274A";

(c) in paragraph 101(2), after "274," insert "274A,".

(16) In section 37 of the Mental Health Act 1983 (powers of courts to order hospital admission or guardianship)—

(a) in subsection (1A)—

(i) after "258," insert "258A,";

(ii) after "274," insert "274A,";

(iii) for "or 285" substitute ", 285 or 285A";

(b) in subsection (1B)—

(i) in paragraph (a), after "258" insert "or 258A";

(ii) in paragraph (b), for "or 274" substitute ", 274 or 274A";

(iii) in paragraph (c), for "or 285" substitute ", 285 or 285A"."

Member's explanatory statement

This amendment inserts into the Sentencing Code provisions that require a court to impose a life sentence on an offender who is convicted of unlawful and dangerous act manslaughter against an emergency worker acting in the exercise of their functions as an emergency worker.

The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Wolfson of Tredegar) (Con): My Lords, it is my pleasure to open the debate on the Report stage of this Bill. I stand to add the proposed new clause, after Clause 2, as printed on the Marshalled List.

This amendment, known as Harper's law, will impose mandatory life terms on those who are convicted of unlawful act manslaughter, where the victim is an emergency worker who is acting in the exercise of their functions as such a worker. The amendment will apply to adult offenders, and to 16 and 17 year-olds. As the House will see, it contains a judicial discretion for the court to impose an alternative sentence in exceptional circumstances.

It may assist noble Lords if I provide a brief overview of manslaughter—I do not propose to turn this into a lecture—and the manner in which this amendment will work. The amendment applies to those convicted of manslaughter, but the proposed new Sections 258A(4), 274A(4) and 285A(4) of the Sentencing Code are provisions to explicitly exclude those convicted of gross negligence manslaughter, as well as those convicted of manslaughter following a successful partial defence to a charge of murder—for example, manslaughter by reason of diminished responsibility, loss of control or in pursuance of a suicide pact. As a result and by process of statutory elimination, the provisions will apply only to those who have been convicted of manslaughter by an unlawful and dangerous act, more commonly referred to as "unlawful act manslaughter".

The Government are making this amendment following the death of PC Andrew Harper in August 2019. I am sure the House is familiar with the horrific facts of that case. PC Harper was responding to reports of the attempted theft of a quad bike. He suffered fatal injuries when he became caught in a strap trailing behind a getaway car and was dragged behind it. At their trial in July 2020, PC Harper's three killers were acquitted of murder but were all convicted of unlawful act manslaughter.

The jury was therefore satisfied that the unlawful and dangerous actions of the defendants, namely the plan to steal the quad bike and then escape apprehension by whatever means possible, including driving dangerously along winding country roads, amounted to manslaughter. The court did not impose life sentences on any of the defendants. Each received sentences of between 13 and 19 years for the manslaughter of PC Harper, sentences that were subsequently upheld by the Court of Appeal. They will therefore all be incarcerated for a significant period. But the Government believe that, where a person is convicted of unlawful act manslaughter, and the person who has been killed is an emergency worker acting as such, that should be punished with life imprisonment.

The court will be able to impose a different sentence where there are exceptional circumstances. As covered in Committee, that term is already used in law and is deliberately undefined in legislation to allow for interpretation and application by the court. This will ensure that the court can apply a different sentence where justified, such as where there are exceptional circumstances relating either to the offence or the offender.

The successful campaign of PC Harper's widow Lissie Harper and the Police Federation drew this issue to the Government's attention, but this was not an isolated incident. While, thankfully, emergency workers are not often killed on duty, they are required to put themselves at particular risk when carrying out their duties and protecting the public. As is often said, they run towards the danger when others run away from it. I therefore beg to move Amendment 1.

Viscount Hailsham (Con): I rise to express my grave concerns about this new clause, which I hope will not be enacted, although I am bound to say that I am rather pessimistic about that.

I will begin by saying something about procedure. I regret that this new clause is being brought forward on Report. The formal announcement of it was by way of a press release on 24 November this year. As the Minister has said, the new clause was triggered by the very distressing case of the killing of PC Harper. We need to keep in mind that the relevant trial took place in July 2020, and it came before the Court of Appeal for consideration in December that year. I suggest that it is hard to see why the new clause could not have been introduced in the House of Commons or, if that were not possible, in Committee in this House. In either event, there would have been a greater opportunity for discussion, both inside and outside Parliament.

All of us will have the greatest sympathy for PC Harper's wife and family. However, we should be very cautious about legislating as a consequence of a single case or even a number of cases, however distressing they may be. I have referred to the trial in 2020 and the decision of the Court of Appeal in December that year. My noble friend referred specifically to them. In both those cases, very serious and detailed consideration was given to the appropriate sentence, and, as my noble friend has said, the Court of Appeal rejected the submission of the Attorney-General that, in the case of the defendant Long—the most culpable of them—the sentence should be increased to a life sentence.

I suggest that anyone who studies the judgments of the courts, together with the guidelines of the Sentencing Council—the relevant ones were published as recently as November 2018—will be satisfied that the existing law makes proper provision for the punishment of offenders convicted of serious offences of manslaughter and gives proper protection to emergency workers.

As your Lordships will know, manslaughter covers a very broad spectrum of culpability, extending from the very serious—the killing of PC Harper is an example of this—to many things that are very much less serious, such as a single blow that fells an individual, who strikes his head on the pavement and dies. In all conscience, that is an act of common assault, although the consequences are dreadful.

In the case of PC Harper, the trial judge stated that, had the defendant Long been a few years older—he was 19 at the time of the trial and 18 at the time of his offence—he would probably have been given a life sentence. So we need to be clear about this. A life sentence is already available for serious cases of manslaughter, where the trial judge, who has heard all the relevant facts, thinks that such a sentence is appropriate.

[Viscount Hailsham]
Your Lordships are being asked to approve a mandatory life sentence in circumstances in which the trial judge might otherwise determine that one is not appropriate. I am deeply uncomfortable with that, especially when I consider the broad spectrum of culpability that arises in manslaughter cases.

Consider a police officer who intervenes in a street brawl, in or out of uniform—it might be a plain-clothes officer. The officer is struck by a single blow or trips in the course of a scuffle. He or she falls, hits their head on the pavement and dies. If the deceased person had been a civilian killed in such circumstances, the court would impose a relatively modest determinate sentence, but, in the case of the police officer and subject to the subsection (2) provisos, which I will shortly mention, the court would have to impose a life sentence. I do not believe that that can be right.

I said that I would speak briefly, if your Lordships would allow me, to proposed new subsection (2), which was briefly referred to my noble friend the Minister. Subsection (2) refers to the exceptional circumstances that relate to the offence or the offender and make it just not to impose a life sentence. The question that arises and must be considered is: what does that mean? Does that mean that, if the judge thinks that the offence falls at the lower level of culpability, a modest determinate sentence can properly be imposed? If that is the case, what is the purpose of the new clause? If such a discretion is not available to the trial judge, it is surely inevitable that injustice will happen on occasions.

At that point, we come to a related matter. We are talking here about not "whole life" cases but life-sentence cases in which a trial judge must impose a custodial tariff. Is the trial judge entitled under these provisions to set a modest determinate tariff in order to address a low level of culpability? If that is the case, what is the point of the new clause? If it is not the case and the trial judge may not impose a modest tariff, it is extremely unjust.

I have one final point, and I acknowledge that it is about drafting. Consider the following circumstances, which fall within proposed new subsection (3)—I will not read it out because it is on the Marshalled List and I do not want to detain your Lordships' House. An off-duty officer in plain clothes, whose identity as a police officer is not apparent, intervenes in a street brawl or seeks to apprehend a fleeing thief. In the scuffle, he or she falls over, hits their head and dies. Is it right that, in those circumstances, such a defendant should automatically face a life sentence, unless the subsection (2) provisos apply?

I am profoundly uncomfortable with this new clause, and I would like to think that it will not pass.

Baroness Butler-Sloss (CB): My Lords, I share the serious concerns of the noble Viscount. Given the degree of pressure that the Government have been under, understandably, after the shocking death of the police officer, they may have strayed too far into imposing upon the judiciary something that is not necessary, in my view. If they remain concerned about the extent to which the Sentencing Council may not have properly reflected the seriousness of an emergency officer being killed, it is perfectly simple to ask it to reconsider this. I suspect that, in the light of PC Harper, it might well do so.

Following what the noble Viscount has just said, I am particularly concerned about the off-duty, plain-clothes police officer, fireman or anybody else who intervenes—very properly, feeling it is his or her duty—and suffers a fatal injury. The situation is as the noble Viscount said: it really does go too far. I understand very well why the Government think it needs to be done, but I wish they would reflect on this, and think again before it goes back to the House of Commons.

6 pm

Baroness Fox of Buckley (Non-Afl): My Lords, I cannot speak as eloquently as the speakers we have just heard, but I want to say that this feels so much like law made by press release, and law made to virtue-signal, that I feel incredibly uncomfortable about it.

We want to say to emergency workers that we will protect them if they are at risk, but we know that the emergency worker in this instance, PC Harper, was not the target of the crime; it was not intentional to kill an emergency worker. So I do not see even how this operates as a deterrent, because it is not aimed at people who have put those emergency workers at risk, even though those workers have accidentally been killed in the pursuit of a criminal act that is, I accept, dangerous.

There is an exception, which is that the trial judge can make an alternative sentence in "exceptional circumstances". But, as has been pointed out, the trial judge can already make an alternative sentence—a full life sentence in some circumstances—so why emphasise it, unless it is a political policy statement? It is not a matter of law; it is a question of saying, "We will be hard", and it will inevitably lead to great injustice. The fact that 16 and 17 year-olds have been included means that very young people could now have mandatory life sentences for manslaughter, with no discretion, and no discretion encouraged. It is so wrong and brought in for all the wrong reasons.

Lord Beith (LD): My Lords, I share many of the reservations expressed already and the analysis given on both the provision and the circumstances which have led to it. I ask the Minister, in his response to the debate, to deal with one of the points raised by the noble Viscount, which is the discretion that might be available to the judge in deciding what tariff accompanies the sentence, as opposed to the provisions of proposed new subsection (2), which give slightly more power—I refrain from defining it as a wider power—in exceptional circumstances to the judge to impose a different sentence altogether.

One thing the Minister did not cover in his helpful introduction was the extent to which the tariff provisions interact with this. I would be grateful if he could explain that, in case he can give us any reassurance about what seems to be the danger of making general law out of a particular case.

Lord Pannick (CB): My Lords, if I may, I will add a point that follows on from what the noble Lord, Lord Beith, said. To require a life sentence is pure deception

because we all know that life sentences are not life sentences, and there is a strong feeling that the life sentence for murder is a deception. Other than in the most exceptional circumstances, the person concerned will be released, and the judge pronounces, in open court, a tariff. I entirely understand why the Government wish to give comfort to the unfortunate relatives and friends of those heroic emergency workers who suffer this appalling treatment and die in service of the country, but it is a gesture—a misleading gesture. We really should not be perpetuating more and more life sentences when the reality is that people receive a term of years.

Earl Attlee (Con): My Lords, arguing this case is far beyond my pay grade, but I support everything that my noble friend Lord Hailsham said in opposition to these amendments. I do not support Amendment 1.

Baroness Hamwee (LD): My Lords, we have more and more life sentences and less and less judicial discretion. The point made by the noble Baroness, Lady Fox, that deterrence is not a factor in this really should not be glossed over; it is very important.

Lord Carlile of Berriew (CB): My Lords, I am puzzled by the mechanism that the Government are trying to use to increase sentences, which, in some cases, should rightly be higher, in relation to the deaths of emergency workers. After a long period of development, we created a completely new mechanism: the Sentencing Council. Judges must have regard to sentencing guidelines in every case, and those guidelines are complex. They give examples of levels at which sentences should start in certain circumstances.

I see a number of noble Lords around this Chamber who have either acted as police officers or have prosecuted and defended manslaughter cases. In my case, I have done, on one side or the other, a number of one-punch manslaughter cases, in which there was a conviction, and perhaps a sentence of three or four years' imprisonment. One can imagine circumstances in which that could have arisen where the person who died was an off-duty emergency worker trying to help someone, and the perpetrator of the offence had no idea that that person was an emergency worker.

Surely the better mechanism is to use the flexible, living instrument of the Sentencing Council, and the sentencing guidelines, and not to inhibit the discretion of judges. The Sentencing Council and the judges will, of course, respond to the pressure that rightly arises from the awful case that has given rise to this discussion and this amendment. With great respect to the Minister, relying on "exceptional circumstances", a description that is always determined in a restrictive way—rightly so—by the Court of Appeal, seems to be the wrong mechanism to achieve the right result.

Lord Marks of Henley-on-Thames (LD): My Lords, on these Benches we share the shock and revulsion at the death of PC Harper and the way that it came about. We support the principle that a life sentence should be available, and even possibly the norm in serious cases, for the manslaughter of an emergency worker. But where we part company with the Government is in sharing the concerns of the noble Viscount, Lord Hailsham, and everybody else who has spoken. We are unhappy with the proposal that such a sentence should be mandatory unless a judge can find "exceptional circumstances".

The word "exceptional" has been seen in the past as requiring circumstances that are quite out of the ordinary. Frankly, I took issue with the Minister when he treated the word as allowing more latitude than the usual interpretation of "exceptional" would permit. The MoJ press release uses the phrase "truly exceptional" to describe what is required. In that connection, the noble Baroness, Lady Fox, rightly made the point about legislation by press release—a point echoed by the noble Lord, Lord Carlile, when he talked about the knee-jerk nature of this type of legislation in particular cases.

We would have far preferred the amendment to permit judges the discretion to depart from the life sentence where the circumstances and the interests of justice required. The Government's determination to prevent judges exercising discretion, as seen throughout this Bill, is frankly depressing. This is despite Victoria Atkins MP saying in the other place only yesterday, in answer to a question from my right honourable friend Alistair Carmichael MP, that:

> "Fundamentally, the judiciary and magistrates should be trusted in their sentencing decisions."—[*Official Report*, Commons, 7/12/21; col. 206.]

Frankly, we agree. I made these arguments in Committee in connection with my amendments to the minimum fixed sentence provisions in Clause 101—now Clause 102—and I will make them again when we come to debate my amendments later on Report.

The Explanatory Note to these provisions asserts that they require a court to impose a life sentence on an offender who is convicted of unlawful and dangerous act manslaughter against an emergency worker. That is misleading. There is no requirement in the proposals that the manslaughter be dangerous, in the sense that there was danger to the life of the victim, as there so obviously was in the Harper case. The requirement for danger in the case of unlawful act manslaughter, on the cases and in the CPS guidelines to prosecutors who apply those cases, it is very limited indeed. It is necessary only that the unlawful act exposed someone—not even necessarily the victim who died—to the risk of "some harm".

I take a hypothetical case, similar to that mentioned by the noble Viscount, of a bad-tempered 17 year-old suspected by a shopkeeper of shoplifting. The shopkeeper accosts him. A row ensues, which turns into a fight—not serious, but serious enough to draw a passing police officer to come into the shop to intervene. The officer tries to arrest the youth. The youth resists arrest. He throws a punch at the officer—not hard, but plainly an assault on a police officer in the execution of his duty and enough to be obvious to everyone that it could cause some harm. The officer falls backwards and sustains an injury that turns out to be fatal.

All the elements of unlawful manslaughter are there. The guideline sentence would probably be two to four years. The required sentence under these proposals would be life imprisonment. Are these circumstances

[Lord Marks of Henley-on-Thames]
"exceptional," as that word is known to the law? No. is the sentence just for that 17 year-old, whose very bad behaviour had such tragic consequences? I would suggest clearly not, when one considers the overall criminality of the offence and the offender. Of course, the death of the victim would significantly aggravate the sentence. That is true for all manslaughter cases. And of course, the fact that the victim was a police officer acting in the course of his duty would be another seriously aggravating factor. But should those circumstances lead to detention for life for a 17 year-old?

The manslaughter excluded from the operation of these provisions is, as the Minister helpfully explained, manslaughter by gross negligence—a very sensible exclusion—or manslaughter mentioned in certain sections of the Homicide Act or the Coroners and Justice Act, which cover diminished responsibility by reason of a recognised mental condition, suicide pacts and loss of control, reducing murder to manslaughter if the specified conditions are met. But that leaves the whole area of unlawful act manslaughter within the provisions, and any such manslaughter of an emergency worker would attract the mandatory life sentence.

The current sentencing guidelines mentioned by the noble Lord, Lord Carlile of Berriew, which came into force as recently as 1 November 2018, suggest a range of sentences for manslaughter of between one and 24 years. They divide culpability into four ranges, from A at the top to D at the low end. The factors indicating lower culpability are as follows:

"Death was caused in the course of an unlawful act … which was in defence of self or other(s) (where not amounting to a defence) OR … where there was no intention by the offender to cause any harm and no obvious risk of anything more than minor harm OR … in which the offender played a minor role,"

or where the

"offender's responsibility was substantially reduced by mental disorder, learning disability or lack of maturity."

Those factors, or some of them, could quite easily be present in many cases of manslaughter of an emergency worker. So these sentences might—perhaps even often—cause serious injustice.

A further point was alluded to by the noble Lord, Lord Pannick. When a life sentence is passed, the release date is ultimately in the hands not of the courts but of the Home Secretary. Any Home Secretary, not just this one, is subject to political pressures. Were a victim, for example, the holder of a Queen's Police Medal, and there was a campaign to keep the offender in custody on that account, how easy would it be for this or a future Home Secretary to succumb to pressure to keep the offender subject to a life sentence in custody, for far longer than would be just?

6.15 pm

We have not sought to put down amendments to these very rushed and very late proposals, because we have no confidence that our doing so would change the course the Government have embarked upon. But I have indicated to the Minister our concerns and I would ask him for an assurance that the Government will keep these sentences under review and, if there comes a time when it is right—and appears right to the Government—to restore discretion to judges in these cases, they will be prepared to act accordingly.

Baroness Jones of Moulsecoomb (GP): My Lords, I had a problem with this amendment myself but, not being a lawyer, I thought I would leave it to those who are. And, having heard the lawyerly wisdom pouring from your Lordships' Benches on this amendment, I am astonished that there has not been an attempt to block the amendment. It is the only power we have to stop this Government overreaching. I am utterly disappointed and I deeply regret that I did not get more involved. I just hope the Minister actually listens to these very eminent views in your Lordships' House and understands that this is not a smart move. I understand the public optics are very attractive, but, really, it just sounds foolish.

Lord Ponsonby of Shulbrede (Lab): My Lords, I stand on these Benches to support, or at least not to oppose, the Government. But I have to say that I am reluctant to go ahead and make this speech, based on the contributions we have just heard. The amendment inserts provisions into the Sentencing Code that require a court to impose a life sentence on an offender convicted of unlawful and dangerous act manslaughter against an emergency worker. As we know, this is known as Harper's law, and it has been campaigned for by PC Andrew Harper's widow after he was killed in the line of duty in 2019.

I listened very carefully to the Minister, and he made much play of the word "exceptional". My noble friend Lord Carlile made the point about the interpretation of the word being fairly narrow in the Court of Appeal. I have to say, in the more "wild west" approach of magistrates' courts, we interpret "exceptional" quite liberally at times. Having said that, I acknowledge that the Minister did make the point that this excludes those convicted of gross negligence manslaughter and includes only those convicted of unlawful act manslaughter, which I thought was an important point.

As I say, we on this side will support the Government in their amendments. However, I do recognise that some very serious points have been raised in this debate.

Lord Wolfson of Tredegar (Con): My Lords, I am grateful to all those who have contributed and I can start by reassuring the noble Baroness, Lady Jones, that I always listen. We may not always agree, but I certainly always listen. I can also reassure the noble Baroness, Lady Fox of Buckley, that this is not law made by press release, nor is it law in the guise of a political policy statement. We have considered this issue very carefully. Indeed, it is because we have taken time to get the policy right as we see it that the amendment is here now and not earlier—to deal with one of the points made by my noble friend Lord Hailsham.

We believe this is the right approach to these circumstances. Of course, I carefully read the judgments in the Harper case, in particular the Court of Appeal judgment. I hope it goes without saying that, standing at this Dispatch Box, I have great respect for that court, as indeed I do for all courts. But that does not mean that Parliament is unable to or should be cautious to legislate in the area of sentencing, or should be prevented or inhibited from doing so. We are entitled to do so, and in this case, we ought to.

I will pick up on a couple of the points made by contributors. First, on exceptional circumstances, I seem to be being criticised both for refusing to define "exceptional circumstances" and for putting it too broadly. I deliberately did not gloss or parse the phrase. "Exceptional circumstances" is a phrase used in other legislation, for example the Sentencing Act 2020 and the Firearms Act 1968. We believe it is best to leave it to the courts to interpret and apply that phrase, and not to parse or gloss it from the Dispatch Box.

The noble Lord, Lord Marks, picked up on the word "totally", which appears, as he said, in a press release form the Ministry of Justice. That shows the importance of leaving it to the words in the statute and not looking at anything else when the courts interpret those words.

An example was given of an off-duty police officer intervening in a fight in a pub. It is right to say that there is no requirement for the offender to know that the victim is an emergency worker acting as such. We stand by that. That is already the approach in other legislation passed by Parliament—for example, the Assaults on Emergency Workers Act 2018. There is no requirement in that Act, either, for the defendant to know that the victim is an emergency worker, although in most cases that will be apparent to the defendant.

For the unlawful act of manslaughter offence to apply in this case, the defendant must have been committing a criminal offence. If the actions of someone are such that they not only commit a criminal offence, but their actions further result in the death of an emergency worker who may be attempting to relieve that very situation, the Government believe the behaviour warrants a life sentence.

I come now to what we mean by a life sentence. I have already dealt with the "exceptional circumstances" point, so I turn to the point on life sentences raised first by my noble friend Lord Hailsham—regarding tariffs—and then more directly by the noble Lord, Lord Pannick. When a person is sentenced to a life term and not a whole life term, the judge will set out what the tariff is. Then it is a matter for the Parole Board to determine release, and the person will be under a life licence thereafter.

These provisions do nothing to circumscribe the ability of the trial judge to impose whatever tariff they think is appropriate in the circumstances. If the trial judge thinks a lower tariff is appropriate—the word "modest" was used by my noble friend—no doubt that is what they will impose. As in the case of murder, we believe the offence warrants a life sentence with a tariff and the consequences therewith.

I hear the point made by the noble Lord, Lord Pannick, that a life sentence does not normally mean that the person stays in prison for their whole life. That is the case across a swathe of criminal law, and maybe on a future occasion the House can decide whether that is an appropriate way to continue. Given that that is our sentencing structure—which I think is correct—it is also appropriate in this case.

I think the debate comes down to whether one accepts that the example given by my noble friend Lord Hailsham of the off-duty officer in civilian clothes who intervenes in a fight—

Lord Carlile of Berriew (CB): I am grateful to the Minister for giving way. One point he has not dealt with, as I understand it, is why the Sentencing Council and sentencing guidelines are not seen as an adequate and flexible mechanism for dealing with cases of this kind. We need a reasoned explanation for the rejection of that proposition.

Lord Wolfson of Tredegar (Con): The reasoned explanation is that the Government believe that this is an offence which should be marked by a life sentence—a mandatory life sentence. The amount of time the person serves can be set by the judge in a tariff.

Lord Carlile of Berriew (CB): The Minister has just given the game away by his slip of the tongue. He said it is a case which should be marked by "a life sentence", and then he said, "a mandatory life sentence". He was right before he made the slip of the tongue. That is exactly what judges can do and exactly what the Sentencing Council can deal with. I am afraid that I do not accept that his explanation so far has been reasoned.

Lord Wolfson of Tredegar (Con): We are now having precisely the opposite debate to the one we had in Committee. In Committee, when someone said to me—I think it was the noble Baroness, Lady Jones—"this is a mandatory sentence" and I said, "but there are exceptions", it was said to me, "no, it is mandatory". Now, when I am trying to point out that it is not mandatory, in the sense that it is a mandatory life sentence but it does not mean you serve life in prison, that is said to be a slip of the tongue. I absolutely meant what I said: this provision sets out a mandatory life sentence, because the Government believe that is the right way to mark society's horror at the killing of emergency workers, in the same way that we do for murder.

However, with murder, and in this case, the trial judge will have the ability to set an appropriate tariff. Also, unlike with murder, the trial judge can, in exceptional circumstances, depart from the sentence entirely, something which society and Parliament does not enable a trial judge to do in any murder case. With great respect to the noble Lord—

Lord Carlile of Berriew: I am sorry to interrupt again, but the Minister has said something completely untenable. He said that under "exceptional circumstances", the judge has the power to depart from the sentence entirely. That is absolutely not the case. If the sentencing guidelines in front of any judge sitting in a criminal court lead to the conclusion that the starting point for the sentencing process is a life sentence, but there are circumstances at which different levels can be set, they will operate on that basis. This provision is unnecessary if we trust the judges. The Government are telling us, on the basis of belief, as the Minister said—which I do not necessarily regard as reasoned—that they do not trust judges to pass appropriate sentences in these cases, on the basis of one or two instances, when there is a perfectly good living instrument for dealing with this.

Lord Wolfson of Tredegar: My Lords, with genuine respect, the noble Lord is wrong if he thinks that that is what I have said. Let me be clear: if there are exceptional circumstances, the judge is entitled to depart from the sentence. In other words, the judge does not have to impose the life sentence. The judge will then decide what sentence to impose. With the greatest respect, I was right to say that if there are exceptional circumstances, the life sentence does not apply. If there are no exceptional circumstances, the life sentence does apply, and the judge will then set a relevant tariff.

Viscount Hailsham (Con): But does not all of this imply that we are really not serving any purpose by the new clause, partly because of the point made by the noble Lord, Lord Carlile, and also the point conceded very fairly by the Minister to the effect that the trial judge can impose in reality a very low tariff? So the question is, what is the point?

6.30 pm

Lord Wolfson of Tredegar (Con): My Lords, I have explained that. There is a difference between being given a life sentence with a 10-year tariff and being given a sentence of 10 years. That is a point that we all accept in the case of murder.

Viscount Hailsham (Con): That is true, too, but the case of murder arises from the original bargain made with Parliament and the country at the time when capital punishment was abolished. That does not apply as an argument to what we are doing now.

Lord Wolfson of Tredegar (Con): My noble friend is absolutely right to say that that is the origin of the life sentence for murder. It was a deal done, if I can put it in those respectful terms, but we have life sentences elsewhere in our legislation as well. The point that I was seeking to answer—and, with great respect, I think I have answered it—was, as I understood it when it was put against me: what is the difference if the trial judge is going to give a tariff of x years, why not just have a sentence of x years? However, there is a difference, as we all recognise, between a life sentence with a tariff of x years and a sentence of x years. We can have a debate—

Earl Attlee (Con): My Lords, does the Minister not run the risk of ending up, in the case of the pub brawl, with the offender being sentenced to life but with only a four-year tariff?

Lord Wolfson of Tredegar (Con): I would not use the word "risk" at all. On the one hand, I am being charged with not trusting the judges and, on the other, giving the judges too much discretion. I am entirely happy with a trial judge having the ability to set an appropriate tariff in these cases, as trial judges do in all cases of murder. Whether the tariff given is four, 10, 15, 20 or 30 years is entirely a matter for the judge. I am entirely happy to trust the judge. However, it is absolutely right for Parliament to say that, in these cases, where somebody has committed an unlawful act that has led to the death of an emergency worker who was acting as such, a life sentence ought to be the correct response from the court. Two points arise. First, with great respect to the noble Lord, Lord Carlile, if there are exceptional circumstances, that sentence does not apply at all. Secondly, if it applies, the judge can impose a tariff.

Baroness Butler-Sloss (CB): Forgive me—and I thank the Minister—but perhaps I might ask him whether it is reasonable that a 16 or 17 year-old should be on lifetime licence when alternatively he might get the time of detention plus another three or four years. A lifetime licence means that he is under the control of probation officers from the age of 16 for the rest of his natural life.

Lord Wolfson of Tredegar (Con): My Lords, we have considered this. We restricted the new sentence to 16 and 17 year-olds to ensure that only older children who are convicted of this serious offence are given a mandatory life sentence, unless there are exceptional circumstances that mean it is not justified. Of course, exceptional circumstances are not just those relating to the offence but those relating to the offender. There is a precedent for this age distinction. The Criminal Justice and Courts Act 2015 also uses the age of 16 as a threshold to begin applying minimum sentences for knife-crime offences. So we have considered the point made by the noble and learned Baroness.

Baroness Jones of Moulsecoomb (GP): I am so sorry, but I do not understand why we are arguing about this. We are all dissatisfied with what the Government are doing, yet none of us can stop it. It is all angels dancing on the head of a pin, as far as I can see. I am really distressed at this and wish that I had spoken to more people and perhaps got some others onside. The Government are making a mistake and that is what the Minister should hear from this debate.

Lord West of Spithead (Lab): I am not a lawyer, I am very pleased to say—I am just a simple sailor. However, it seems from the complexity of the debate that this is quite a significant amendment that was brought in quite late. I find that rather worrying, because the feeling around the House is that if there were a vote on this, it might well not pass; I think it would fail. That is a worrying position to be in and I do not know how we can resolve that. It is not really very satisfactory.

Lord Paddick (LD): I was not going to say anything, but I am, I think, the only former police officer in the Chamber. Is the Minister saying that he would be satisfied if somebody were sent to prison for four years for killing a police officer on duty in these circumstances? That seems to be what the noble and learned Lord is saying. In which case, what is the point?

Lord Wolfson of Tredegar (Con): I know it is bad form, but perhaps I can answer in reverse order. I certainly was not saying that. Indeed, the point that I was trying to make was that I was not going to get

into what an appropriate tariff would be in any case; I regard that as absolutely a matter for the trial judge. It is not helpful for trial judges or indeed anybody else for Ministers on their feet to hypothesise as to what they might think an appropriate tariff would be in a particular case. The tariff is entirely a matter for the trial judge, who will decide it in the way in which they decide tariffs in other cases of life sentences as well.

To the noble and gallant Lord—forgive me, I am not sure whether I have that right; he is proud not to be a lawyer, a point with which I sympathise—I say that we brought in this amendment as soon as we had thought about the policy and, we think, got it right. When we were thinking about this issue, there were there were a number of points in the policy that required very careful consideration. That took time and that is why it is happening now. I cannot say any more than that.

I was going to acknowledge another point made, but I think I have already responded.

Baroness Lister of Burtersett (Lab): I apologise for not being here at the outset, but I have listened very carefully to what has been said and it seems to me that it would be wrong simply to steamroller this amendment through now when virtually everyone who has spoken has done so very eloquently against it. Would it be possible to take it away, talk to learned Members of this House and come back at Third Reading with something that might be more acceptable ?

Lord Garnier (Con): Like the noble Baroness, Lady Lister, I, too, apologise for not being here at the outset when my noble friend Lord Hailsham began. I know that next week we are going to talk about IPPs. That subject carries with it all the problems that this subject will bring with it. We now know that IPPs went wrong and have created injustices, and that there are people who have IPPs but short tariffs well past their expiry date and who are still in prison 10 or 15 years after their sentencing. Could we not learn the lessons from the IPP problem and, in order to help us learn those lessons, postpone a decision on this clause until after we have had the IPP debate, so that together we can draw a united conclusion about how best to move forward with justice?

Lord Wolfson of Tredegar (Con): My Lords, the joys of the IPP debate are ahead of us. That raises very different points. The IPP sentence has different characteristics and the problems that it has given rise to are entirely different. I listened very carefully to the debate in Committee on IPPs, when a number of noble and noble and learned Lords expressed disquiet and tabled various amendments. They will know that I have had conversations with them about it. So I am entirely alive to the IPP issue, but that is completely separate from this issue. We consider that this measure is an appropriate response to this form of offending.

Baroness Fox of Buckley (Non-Afl): The Minister listened very carefully to the debate in Committee on IPP. Some of us have read that and thought about it a lot since then. The problem is that noble Lords have not had the opportunity to listen very carefully to the debate on this particular amendment: that is the problem, in a way. It is not a straightforward amendment. I learned of it by hearing about it via the media and thought it could not possibly be being brought forward in relation to this Bill; I actually explained to people that they did not understand the way in which legislation was made, and that that was just something that the media said. Then, I realised that it was happening.

The Minister was very good and answered some of my queries and made sure that I did not fight any straw men when I went to him with particular arguments. He was very considerate in answering them. However, I do not think that the House has had the chance to consider this amendment. It is not without parallel to the IPP, inasmuch as it is a controversial sentencing change that has very big implications. We know that, because in the press release and the media reports, it was said that this would change everything. That is how it was announced: it was proclaimed as something that would change everything. Therefore, if it is going to change everything, people in this House should have a chance to debate it more thoroughly than now, so it is reasonable to ask if it could be brought forward later on in the Bill in order for some consideration to be given.

Lord Wolfson of Tredegar (Con): I do not know which of the no-doubt multifarious press releases the noble Baroness read, but it was clear in the ones that I saw that the matter was going to be brought back here. This amendment was, I understand, tabled on 1 December, so the issue has been live. I am very happy to take any further interventions. That was probably not a good idea.

Earl Attlee (Con): My Lords, I cannot resist the temptation. Would the Minister be prepared to express some uncertainty about the "exceptional" rule? If he expressed that uncertainty, it would mean that a Third Reading amendment to the noble Lord's amendment would be acceptable.

Lord Wolfson of Tredegar (Con): My Lords, I am not quite sure what I am being asked to accept, but I do not have any uncertainty as to what "exceptional circumstances" is. It is a phrase used in this legislation; it is used in other legislation; it is a phrase that is well known to the courts. It is a phrase that they are perfectly able to deal with.

Lord Beith (LD): The relevance of IPP sentences to this debate is that, when IPP sentences were introduced, rather similar speeches were made from the Front Bench to the one that the Minister is making tonight. I know his style his different, but the fact remains that it was a disaster and a scandal. It developed in ways in which all those who introduced it did not anticipate, and now concede was wrong, but they had not fully understood at the time what the consequences were. This has all those hallmarks about it.

Lord Wolfson of Tredegar (Con): As I said, I am very alive to the IPP issues, as the noble Lord knows; but the IPP issue and the IPP sentence was a novel sentence which did things that other sentences did not

[Lord Wolfson of Tredegar]
do. Indeed, that is why it was brought in. The shape of this sentence, however, is not novel. It is the application to this particular offence that is new. With the greatest of respect, therefore, I disagree with the comparison to IPP sentences, which were themselves novel.

I hope that I have set out the government position clearly and fairly—

Lord Paddick (LD): My Lords, the noble Lord started his contribution to this debate by saying that he was listening. Surely, he has heard from the House that the House is not content to allow this amendment to pass at this stage. Surely, the only reasonable thing to do in these circumstances—because nobody wants to divide on this issue here and now—is for the Minister to say that he will take it away and bring it back at Third Reading once noble Lords have had a chance to discuss the issue with him between now and Third Reading.

Lord Wolfson of Tredegar (Con): As I hope the House knows from this Bill and plenty of other Bills, I am very happy to discuss issues with anyone at any time. However, points of principle have been made, and points of principle have been answered by me as clearly and cogently as I am able to do. I think that the appropriate thing to do—relative newcomer as I am to this House—is that the Question on the amendment should be put. If people want to—

6.45 pm

Lord Ponsonby of Shulbrede (Lab): My Lords, I have another suggestion for the noble Lord, as we can all see that he is in a difficult situation. The Government have put forward their protest amendments, which are coming at the latter stage of Report. There is nothing to stop the Government from withdrawing this amendment now and bringing it back at the latter stage of Report. It will give everyone time to consider their position and the Government would not lose time. They could do it via Third Reading, or they could do it the way I am suggesting now. I hope that the Minister will consider that suggestion constructively.

Lord Marks of Henley-on-Thames (LD): I am sorry to make a second intervention before the Minister has had a chance to answer the first. The point I wanted to make to the House and for the Minister's consideration is really a very similar one. It seems to me that the suggestion of the noble Lord, Lord West, is a viable one and the suggestion of the noble Lord, Lord Ponsonby, is also a viable one. The noble Lord mentioned listening. We all know that he does listen and that he is prepared to listen. That listening generally involves talking and having meetings about amendments and proposals. This is a government amendment, and the Minister is quite right to point out that it was publicised on 1 December. That was one week ago for an important change in the law. The suggestion of the noble Lord, Lord Ponsonby, allows this to be considered and discussed with noble Lords about the House during the rest of Report, and it could come back in January, because we have this very long period due to the Christmas break. May I suggest that that is the fair and sensible way to proceed, rather than insisting on putting the Question on it tonight, landing the House with an unexpected vote if there were to be a vote, and failing to discuss it with noble Lords around the House in the meantime, which could quite easily be done?

Earl Attlee (Con): My Lords, I am not convinced that the noble Lord, Lord Ponsonby, is correct because if we delay the amendment, we would be putting it at the back of the Bill, but it has to be in this position in the Bill. Therefore, I think we should leave it until Third Reading rather than delay it.

Lord Wolfson of Tredegar (Con): My Lords, I am not going to try to adjudicate on that point, which seems to be a point of procedure, better left to those who know more about it than I do. I have listened very carefully to the debate, and points of principle have been raised. With genuine respect, however, I believe that I have set out the Government's position on those points of principle. Kicking the can down the road—attractive as that can sometimes appear—will not achieve anything substantive.

Lord Falconer of Thoroton (Lab): This is pretty shocking. There is a lot of support for the principle that the amendment could be so much better if it could be debated. I completely understand the noble Lord's embarrassment. He does not want to go back to the Ministry of Justice and not have the amendment, but if you want good law, recognising that the Government want this, there is so much that could be discussed to make this provision better.

The noble Baroness, Lady Williams, agreed without any pressure on two things in relation to the additional protest measures. First, she agreed that they should come at the end of Committee and secondly, she did not move them in Committee because of the exact problem that has arisen in this case. She indicates the right way forward. We would greatly appreciate in the House if the noble Lord would show us the same courtesy that the noble Baroness, Lady Williams, showed us.

Lord Wolfson of Tredegar: I am very happy to be accused of all sorts of things, but I hope that nobody in this House believes that I act either towards it or towards any of its Members with discourtesy. We may have disagreements, but they are always, I hope, courteous. I am not in the least embarrassed about going back to the Ministry of Justice with or without anything. My task, as I see it, is to set out the Government's position in this House and then the House has to take a view.

With great respect to the noble and learned Lord, I do not accept that this is a question of tweaking the provision or making it better. The points that have been put to me are really points of principle—people do not agree with this at all, while saying, "Of course we agree." The matter ought to be presented to the House and dealt with by it today.

Lord Carlile of Berriew (CB): Following on from the remarks of the noble and learned Lord, Lord Falconer, can the Government agree to the House being adjourned for half an hour or so, so that there

can be a discussion between the usual channels and between the groups in the House as to how this should continue? We would be very grateful and it would be seen as a matter of utmost but necessary courtesy.

Baroness Jones of Moulsecoomb (GP): I have an alternative suggestion; perhaps the clerk can tell us whether it is legal. Is there anything to stop any of us calling for a vote once—

Noble Lords: No. We can.

Baroness Jones of Moulsecoomb (GP): Then if the Minister puts the Question, I will call for a vote.

Lord Pannick (CB): Any Member of the House can call a vote but, if the Minister is not willing to accede to any of the suggestions that have been made, it is the obligation of the Front Benches to indicate that they are so dissatisfied, in the light of all the debate and the fact that we have only had a week to consider this, that they will divide the House. If they were so to indicate, that might impose a bit more pressure on the Minister.

Lord Wolfson of Tredegar (Con): In the last week, as is my wont, I have had discussions with a number of Members of this House on this matter. Any Member of the House knows that my door is always open to them, metaphorically and often literally. All the discussions that I have had on this amendment have been ones that I have reached out to others to have. Nobody has knocked on my door. In those circumstances, I cannot say that we will adjourn. If I am told differently, that will be for others to decide. At the moment, I will ask the House to vote on my amendment.

Viscount Hailsham (Con): My Lords, I hate to intervene on my noble friend but I will formally move that the House be adjourned for one hour.

Lord Wolfson of Tredegar: My Lords, I ask the House to vote on my amendment.

Motion

Moved by ***Viscount Hailsham***

That the House do adjourn for one hour.

Viscount Hailsham: I beg to move.

6.53 pm

Division on Viscount Hailsham's Motion.

Contents 125; Not-Contents 162.

Viscount Hailsham's Motion disagreed.

Division No. 3

CONTENTS

Adams of Craigielea, B.
Addington, L.
Alderdice, L.
Bach, L.
Bakewell of Hardington Mandeville, B.
Barker, B.
Beith, L.
Bennett of Manor Castle, B.
Berkeley, L.
Blackstone, B.
Blake of Leeds, B.
Blower, B.
Brinton, B.
Brown of Eaton-under-Heywood, L.
Browne of Ladyton, L.
Bruce of Bennachie, L.
Burnett, L.
Burt of Solihull, B.
Butler-Sloss, B.
Campbell-Savours, L.
Carlile of Berriew, L.
Carlisle, Bp.
Chakrabarti, B.
Chidgey, L.
Clement-Jones, L.
Coaker, L.
Collins of Highbury, L.
Colville of Culross, V.
Corston, B.
Desai, L.
Dholakia, L.
Falconer of Thoroton, L.
Featherstone, B.
Foster of Bath, L.
Foulkes of Cumnock, L.
Fox of Buckley, B.
Fox, L.
Garden of Frognal, B.
Garnier, L.
German, L.
Golding, B.
Grender, B.
Hailsham, V.
Hamwee, B.
Harris of Richmond, B.
Hayter of Kentish Town, B.
Henig, B.
Hooper, B.
Hope of Craighead, L.
Humphreys, B.
Hussain, L.
Hussein-Ece, B.
Inglewood, L.
Jolly, B.
Jones of Cheltenham, L.
Jones of Moulsecoomb, B.
Jones, L.
Kennedy of The Shaws, B.
Kerslake, L.
Khan of Burnley, L.
Knight of Weymouth, L.
Kramer, B.
Lang of Monkton, L.
Lawrence of Clarendon, B.
Lea of Crondall, L.
Lister of Burtersett, B.
Lytton, E.
Mair, L.
Manchester, Bp.
Marks of Henley-on-Thames, L.
McNally, L.
Merron, B.
Monks, L.
Morgan of Huyton, B.
Newby, L.
Northover, B.
Oates, L.
O'Loan, B.
Paddick, L.
Pannick, L.
Parminter, B.
Patten of Barnes, L.
Pinnock, B.
Ponsonby of Shulbrede, L.
Prashar, B.
Ramsay of Cartvale, B.
Ramsbotham, L.
Randerson, B.
Redesdale, L.
Reid of Cardowan, L.
Rennard, L.
Roberts of Llandudno, L.
Rosser, L.
Scriven, L.
Sharkey, L.
Sheehan, B.
Sherlock, B.
Shipley, L.
Smith of Basildon, B.
Smith of Newnham, B.
Stoneham of Droxford, L.
Storey, L.
Strasburger, L.
Stunell, L.
Suri, L.
Suttie, B.
Taylor of Bolton, B.
Taylor of Warwick, L.
Teverson, L.
Thomas of Cwmgiedd, L.
Thomas of Gresford, L.
Thomas of Winchester, B.
Thornhill, B.
Tope, L.
Tyler of Enfield, B.
Uddin, B.
Wallace of Saltaire, L.
Warwick of Undercliffe, B.
West of Spithead, L.
Wheeler, B.
Whitaker, B.
Wigley, L.
Wilcox of Newport, B.
Willis of Knaresborough, L.
Young of Old Scone, B.

NOT CONTENTS

Agnew of Oulton, L.
Ahmad of Wimbledon, L.
Altrincham, L.
Anelay of St Johns, B.
Ashton of Hyde, L.
Attlee, E.
Balfe, L.
Bellingham, L.
Benyon, L.
Bertin, B.
Birt, L.
Blackwood of North Oxford, B.
Bloomfield of Hinton Waldrist, B.
Borwick, L.
Bourne of Aberystwyth, L.
Brady, B.
Brougham and Vaux, L.
Browne of Belmont, L.
Brownlow of Shurlock Row, L.
Buscombe, B.
Caine, L.
Caithness, E.
Callanan, L.
Carrington of Fulham, L.
Chisholm of Owlpen, B.
Choudrey, L.
Colgrain, L.
Cork and Orrery, E.
Cormack, L.
Courtown, E.
Cruddas, L.
Davidson of Lundin Links, B.
Davies of Gower, L.

Deighton, L.
Dobbs, L.
Dodds of Duncairn, L.
Duncan of Springbank, L.
Dundee, E.
Dunlop, L.
Eccles of Moulton, B.
Eccles, V.
Empey, L.
Evans of Bowes Park, B.
Fairfax of Cameron, L.
Fall, B.
Fleet, B.
Flight, L.
Fookes, B.
Ford, B.
Foster of Oxton, B.
Frost, L.
Gadhia, L.
Gale, B.
Gilbert of Panteg, L.
Godson, L.
Goldie, B.
Goodlad, L.
Grantchester, L.
Greenhalgh, L.
Griffiths of Fforestfach, L.
Grimstone of Boscobel, L.
Grocott, L.
Hamilton of Epsom, L.
Harding of Winscombe, B.
Harlech, L.
Haselhurst, L.
Henley, L.
Hodgson of Abinger, B.
Hodgson of Astley Abbotts, L.
Holmes of Richmond, L.
Horam, L.
Howard of Rising, L.
Howe, E.
Howell of Guildford, L.
Hunt of Wirral, L.
Jenkin of Kennington, B.
Jopling, L.
Kamall, L.
Kilclooney, L.
King of Bridgwater, L.
Kinnoull, E.
Kirkhope of Harrogate, L.
Lamont of Lerwick, L.
Lansley, L.
Layard, L.
Leigh of Hurley, L.
Lingfield, L.
Liverpool, E.
Livingston of Parkhead, L.
Mann, L.
Manzoor, B.
Masham of Ilton, B.
Mawson, L.
Maxton, L.
McAvoy, L.
McCrea of Magherafelt and Cookstown, L.
McInnes of Kilwinning, L.
Meacher, B.
Mobarik, B.
Montrose, D.
Morgan of Cotes, B.
Morris of Bolton, B.
Morrow, L.
Moylan, L.
Naseby, L.
Nash, L.
Neville-Jones, B.
Neville-Rolfe, B.
Nicholson of Winterbourne, B.
Noakes, B.
Norton of Louth, L.
Osamor, B.
Parkinson of Whitley Bay, L.
Patel, L.
Pidding, B.
Polak, L.
Popat, L.
Randall of Uxbridge, L.
Reay, L.
Redfern, B.
Ribeiro, L.
Ridley, V.
Risby, L.
Ritchie of Downpatrick, B.
Robathan, L.
Rogan, L.
Russell of Liverpool, L.
Sanderson of Welton, B.
Sandhurst, L.
Sarfraz, L.
Sater, B.
Scott of Bybrook, B.
Seccombe, B.
Selkirk of Douglas, L.
Shackleton of Belgravia, B.
Sharpe of Epsom, L.
Sheikh, L.
Sherbourne of Didsbury, L.
Shinkwin, L.
Shrewsbury, E.
Smith of Finsbury, L.
Smith of Hindhead, L.
Snape, L.
Stansgate, V.
Sterling of Plaistow, L.
Stewart of Dirleton, L.
Strathclyde, L.
Taylor of Holbeach, L.
Trefgarne, L.
Trenchard, V.
True, L.
Tugendhat, L.
Vaizey of Didcot, L.
Vere of Norbiton, B.
Walney, L.
Waverley, V.
Wei, L.
Williams of Trafford, B.
Wolfson of Tredegar, L.
Wyld, B.
Young of Cookham, L.
Younger of Leckie, V.

7.07 pm

Lord Wolfson of Tredegar (Con): My Lords, I want to put it on record that in the last week, when this amendment has been tabled, all the engagement I have had on this matter I have facilitated, and I have reached out to. Not a single Member of this House has reached out to me about this amendment. I beg to move the amendment.

7.08 pm

Division on Amendment 1

Contents 211; Not-Contents 82.

Amendment 1 agreed.

Division No. 4

CONTENTS

Adams of Craigielea, B.
Agnew of Oulton, L.
Ahmad of Wimbledon, L.
Altrincham, L.
Anelay of St Johns, B.
Armstrong of Hill Top, B.
Ashton of Hyde, L.
Balfe, L.
Barker, B.
Barran, B.
Bassam of Brighton, L.
Benyon, L.
Berkeley, L.
Birt, L.
Black of Brentwood, L.
Blackwood of North Oxford, B.
Blake of Leeds, B.
Bloomfield of Hinton Waldrist, B.
Borwick, L.
Bourne of Aberystwyth, L.
Bradley, L.
Brady, B.
Brougham and Vaux, L.
Browne of Belmont, L.
Brownlow of Shurlock Row, L.
Buscombe, B.
Caine, L.
Callanan, L.
Campbell-Savours, L.
Carrington of Fulham, L.
Chandos, V.
Chisholm of Owlpen, B.
Choudrey, L.
Coaker, L.
Colgrain, L.
Collins of Highbury, L.
Colville of Culross, V.
Cormack, L.
Corston, B.
Courtown, E.
Cromwell, L.
Cruddas, L.
Davidson of Lundin Links, B.
Davies of Brixton, L.
Davies of Gower, L.
Deighton, L.
Desai, L.
Dobbs, L.
Dodds of Duncairn, L.
Duncan of Springbank, L.
Dundee, E.
Dunlop, L.
Eccles of Moulton, B.
Eccles, V.
Empey, L.
Evans of Bowes Park, B.
Fairfax of Cameron, L.
Fleet, B.
Fookes, B.
Foster of Oxton, B.
Foulkes of Cumnock, L.
Frost, L.
Gadhia, L.
Gale, B.
Garden of Frognal, B.
Gilbert of Panteg, L.
Godson, L.
Goldie, B.
Golding, B.
Goodlad, L.
Grantchester, L.
Greenhalgh, L.
Griffiths of Fforestfach, L.
Grimstone of Boscobel, L.
Grocott, L.
Hamilton of Epsom, L.
Harlech, L.
Harris of Haringey, L.
Haselhurst, L.
Hayman of Ullock, B.
Hayter of Kentish Town, B.
Healy of Primrose Hill, B.
Henley, L.
Herbert of South Downs, L.
Hodgson of Abinger, B.
Hodgson of Astley Abbotts, L.
Hogan-Howe, L.
Holmes of Richmond, L.
Hooper, B.
Howard of Rising, L.
Howarth of Newport, L.
Howe, E.
Howell of Guildford, L.
Hunt of Wirral, L.
Inglewood, L.
Jenkin of Kennington, B.
Jolly, B.
Jones of Whitchurch, B.
Jopling, L.
Kamall, L.
Kennedy of Cradley, B.
Kennedy of Southwark, L.
Khan of Burnley, L.
King of Bridgwater, L.
Kirkham, L.
Kirkhope of Harrogate, L.
Knight of Weymouth, L.
Lamont of Lerwick, L.
Lang of Monkton, L.
Lawrence of Clarendon, B.
Layard, L.
Lea of Crondall, L.
Leigh of Hurley, L.
Lexden, L.
Lingfield, L.
Liverpool, E.
Livingston of Parkhead, L.
Mallalieu, B.
Mann, L.
Manzoor, B.
Maxton, L.
McAvoy, L.
McInnes of Kilwinning, L.
McIntosh of Hudnall, B.
McIntosh of Pickering, B.
McNicol of West Kilbride, L.

Merron, B.
Mobarik, B.
Monks, L.
Montrose, D.
Morgan of Cotes, B.
Morgan of Huyton, B.
Morris of Bolton, B.
Morrow, L.
Moylan, L.
Naseby, L.
Nash, L.
Neville-Jones, B.
Neville-Rolfe, B.
Noakes, B.
Norton of Louth, L.
O'Loan, B.
Osamor, B.
Parkinson of Whitley Bay, L.
Patel, L.
Patten of Barnes, L.
Pidding, B.
Pitkeathley, B.
Ponsonby of Shulbrede, L.
Popat, L.
Ramsay of Cartvale, B.
Ramsbotham, L.
Randall of Uxbridge, L.
Reay, L.
Redfern, B.
Reid of Cardowan, L.
Ribeiro, L.
Ridley, V.
Risby, L.
Ritchie of Downpatrick, B.
Robathan, L.
Rosser, L.
Sanderson of Welton, B.
Sandhurst, L.
Sarfraz, L.
Sater, B.
Scott of Bybrook, B.
Seccombe, B.
Selkirk of Douglas, L.
Shackleton of Belgravia, B.
Sharpe of Epsom, L.
Sheikh, L.
Sherbourne of Didsbury, L.
Sherlock, B.
Shinkwin, L.
Shrewsbury, E.
Smith of Basildon, B.
Smith of Finsbury, L.
Smith of Hindhead, L.
Snape, L.
Stansgate, V.
Sterling of Plaistow, L.
Stewart of Dirleton, L.
Storey, L.
Strathclyde, L.
Suri, L.
Taylor of Bolton, B.
Taylor of Holbeach, L.
Taylor of Warwick, L.
Thornton, B.
Touhig, L.
Trefgarne, L.
Trenchard, V.
True, L.
Tugendhat, L.
Tunnicliffe, L.
Tyler of Enfield, B.
Vere of Norbiton, B.
Warwick of Undercliffe, B.
Watson of Invergowrie, L.
Wheeler, B.
Whitaker, B.
Wilcox of Newport, B.
Williams of Trafford, B.
Wolfson of Tredegar, L.
Wood of Anfield, L.
Wyld, B.
Young of Cookham, L.
Young of Norwood Green, L.
Young of Old Scone, B.
Younger of Leckie, V.

NOT CONTENTS

Addington, L.
Alderdice, L.
Attlee, E.
Bakewell of Hardington Mandeville, B.
Beith, L.
Bellingham, L.
Bennett of Manor Castle, B.
Blower, B.
Blunkett, L.
Brinton, B.
Brown of Eaton-under-Heywood, L.
Bruce of Bennachie, L.
Burnett, L.
Burt of Solihull, B.
Caithness, E.
Campbell of Pittenweem, L.
Carlile of Berriew, L.
Chakrabarti, B.
Chidgey, L.
Clement-Jones, L.
Dholakia, L.
Fall, B.
Featherstone, B.
Ford, B.
Foster of Bath, L.
Fox of Buckley, B.
Fox, L.
German, L.
Goddard of Stockport, L.
Grender, B.
Hailsham, V.
Hamwee, B.
Harding of Winscombe, B.
Harris of Richmond, B.
Henig, B.
Hope of Craighead, L.
Humphreys, B.
Hussain, L.
Hussein-Ece, B.
Jones of Cheltenham, L.
Jones of Moulsecoomb, B.
Kennedy of The Shaws, B.
Kerslake, L.
Kinnoull, E.
Kramer, B.
Lister of Burtersett, B.
Manchester, Bp.
Marks of Henley-on-Thames, L.
Masham of Ilton, B.
McNally, L.
Meacher, B.
Newby, L.
Nicholson of Winterbourne, B.
Northover, B.
Paddick, L.
Pannick, L.
Parminter, B.
Pinnock, B.
Polak, L.
Prashar, B.
Randerson, B.
Rennard, L.
Roberts of Llandudno, L.
Sharkey, L.
Sheehan, B.
Shipley, L.
Smith of Newnham, B.
Stoneham of Droxford, L.
Strasburger, L.
Stunell, L.
Suttie, B.
Teverson, L.
Thomas of Cwmgiedd, L.
Thomas of Gresford, L.
Thomas of Winchester, B.
Thornhill, B.
Tope, L.
Uddin, B.
Wallace of Saltaire, L.
Wei, L.
Wigley, L.
Willis of Knaresborough, L.

7.24 pm

Sitting suspended.

Covid-19 Update

Statement

7.30 pm

The Parliamentary Under-Secretary of State, Department of Health and Social Care (Lord Kamall) (Con): My Lords, with the leave of the House, I shall now repeat a Statement made in another place by my right honourable friend the Secretary of State for Health and Social Care. The Statement is as follows:

"With permission, Mr Speaker, I would like to update the House on the Covid-19 pandemic. We are working night and day to understand more about the omicron variant. There is a lot still to learn, but some important data has emerged very recently and I would like to update the House on the latest developments.

There are three reasons why the omicron variant is a threat. The first is that it is far more transmissible than the delta variant. The delta variant was much more transmissible than the alpha variant, and we are confident that omicron is significantly more transmissible than delta. We can see this most starkly when looking at how many days it takes for the number of infections to double for each variant. For delta, this was around every seven days, but for omicron, based on the latest data from here and around the world, our latest analysis is that it is between 2.5 and three days. This has made the virus an even more formidable foe.

The rate of growth in S-gene dropout cases in England, using S-gene dropout as a reliable proxy, is similar to that observed in South Africa. Although there are only 568 confirmed omicron cases in the UK, we know that the actual number of infections will be significantly higher. The UK Health Security Agency estimates that the number of infections is approximately 20 times higher than the number of confirmed cases, so the number of infections is closer to 10,000. UKHSA estimates that, at the current observed doubling rate of between 2.5 and three days, by the end of this month infections could exceed a million.

The second is severity. We do not yet have comprehensive data on the severity of this virus, but rising rates of hospitalisation in South Africa show that it certainly has the potential to cause harm. South Africa is a country where the average age is 13 years lower than in the UK, where they have a high level of antibodies from natural infection, and where it is currently the middle of summer. Even if the severity is lower than or the same as delta, high transmissibility

[Lord Kamall]
means that the omicron variant can still have a severe impact, with the threat of more hospitalisations and unsustainable pressure on the NHS. This would mean an impact not just on Covid treatment but on non-Covid care that we all rely on, such as emergency care if somebody was involved, sadly, in a serious accident. When we set out plan B, we said we would act if the NHS was likely to come under unsustainable pressure and was at risk in providing the care and treatment that people need. The omicron variant has given us cause for concern.

Thirdly, we have been looking closely at what the omicron variant means for our vaccination programme. New laboratory data which has emerged in the last 24 hours suggests that there is lower immunity against omicron from vaccination compared with the delta variant, so that two doses of a vaccine are less effective at reducing transmission in the community. Early research published today by Pfizer suggests, however, that a third dose of the Pfizer vaccine neutralised the omicron variant to levels that are similar to the impact of two doses against the original strain of the virus. So it is more important than ever that we get the boosters available for all those eligible, and keep strengthening the defences that we have built. Today we have opened booster bookings to 7 million more people in England, so people aged 40 and over, and those in high-risk groups, will be able to get their booster jab from three months after their second dose.

Another defence is new treatments, which have a huge part to play in protecting the most vulnerable from Covid-19, especially for those who are immunosuppressed, for whom vaccines may be less effective. Today we have announced plans for thousands of people across the UK to be among the first in the world to access life-saving antivirals through a new national study. People who are at highest risk from the virus—for example, those who are immunocompromised or cancer patients—will also be able to access treatments outside this study from next Thursday if they have a positive PCR test.

We have built some powerful defences. We have put more boosters in arms than any country in Europe, we have built a huge nationwide infrastructure for testing, and we are leading the world in the deployment of new treatments. Thanks to these defences and our decision to open up in the summer rather than the winter, we are much better protected than we were this time last year, and we need this protection now more than ever. Although omicron will become more and more prevalent over the next few days and weeks, we will see the delta and omicron variants circulating together. Facing these twin threats without these pharmaceutical defences would have been hard enough, but even with them in place, we still face a perilous winter and so, unfortunately, we need to take steps against the threat of this new variant.

When we were moving down our road to recovery, we looked at four tests to see whether we should proceed to the next stage: that the vaccine deployment programme continues successfully; that the evidence shows that vaccines are sufficiently effective in reducing hospitalisations and deaths in those vaccinated; that infection rates do not risk a surge in hospitalisations, which would put unsustainable pressure on the NHS; and that our assessment of the risks is not fundamentally changed by new variants of concern. Unfortunately, the situation is markedly different now to how it was in the summer, when we were able to open up, so we must take proportionate steps to meet this emerging threat. These are not measures that any of us want to take, but these measures give us the best chance of saving lives and protecting our freedom over the next few weeks. It is precisely because we do not want lockdown that we are putting these proportionate steps in place now. As we have seen before, if we act early, firmly and decisively, and come down hard on this new omicron variant now, we can avert tougher action later on.

I know that the news of further measures will be disappointing for many people and that every measure comes with a cost. I can assure the House that in making these decisions we have taken a wide-ranging view, looking at the impact not just on the NHS in terms of Covid and non-Covid care but on the nation's education, economy, life chances and mental health.

I would like to update the House on the measures we will take to enact plan B. First, we will reintroduce guidance on working from home; it will be updated to say that only people who cannot work from home should continue to go into their workplace. We know that this has an important part to play in slowing transmission, both at workplaces and on public transport. Secondly, we will introduce mandatory certification, based on vaccines or tests, in nightclubs and large events. This will reduce the number of unvaccinated, infectious people in venues, which could limit overall transmission. Thirdly, on face coverings, we will extend the legal requirement for shops and public transport to all indoor public settings, including attractions and recreation, although hospitality will be exempt and we will exempt specific activities where it is not possible or practical to wear a face covering, such as singing and exercise. We will lay those regulations tomorrow, to come into force the following day.

Fourthly, as omicron spreads in the community, we will introduce daily tests for contacts instead of isolation so that we keep people safe while minimising the disruption to daily life.

Fifthly, on communications, we will be urging caution in all our communications on Covid-19 and keep urging people to get their booster doses and follow the little steps that they can to get the virus under control. These regulations will be reviewed on 5 January, when we will also update the House, and they will sunset on 26 January.

Finally, we will also be taking further measures to protect and support social care and we will update the House on a package of measures later this week. It is better to stay a step ahead of the virus rather than reacting to what it brings, taking control of our response now rather than waiting for what comes next. Waiting a few weeks would make it easier to explain the need for these measures, but by then it might well be too late. So we need to act now and take these balanced and proportionate steps. We take these steps with a heavy heart, but we do so confident that we are doing everything in our power to keep our nation safe this

winter. We have come so far over the course of this year, thanks to the defences we have built against this deadly virus. Now, as we face this new threat, we must draw on the same spirit that got us here, strengthen our defences and think about what we can do to get this virus under control. I commend this Statement to the House."

My Lords, that concludes the Statement.

7.41 pm

Baroness Thornton (Lab): My Lords, I thank the Minister for reading the Statement tonight. On this side of the House, we have always put public health first at every point during this pandemic, so I repeat the words of my honourable friend Wes Streeting, shadow Secretary of State for Health and Social Care, in the Commons an hour ago, when he said

"I want to be clear with the House and the country that Labour will support these measures in the national interest."

Of course, we know that this decision is not taken lightly. Restrictions impact on people's lives, livelihoods and liberties and we do not take those for granted on this side of the House.

Everyone wants to be able to enjoy Christmas safely this year, given the trauma of last winter. But the omicron variant is a clear threat, as the Minister has explained, and clearly swift action is needed to limit its spread. I want to ask the Minister a question I have not asked for some time in your Lordships' House: what is the R number today and what is it predicted to be in two weeks' time?

On these Benches, we have said that scrapping the guidance on mask wearing was a mistake and have consistently called for masks to be worn in indoor hospitality settings too. We welcome the Government's reintroduction of that measure, if that is what the Minister said. I seek some clarification on what is actually going to happen; I am not sure I understand the difference between an attraction and hospitality, so could the Minister go into some detail about what will happen in our pubs and restaurants—or will they continue as they are?

The House may remember that we have said that people should have the flexibility to work from home, so we welcome the updated guidance on that. On vaccine passports, I am glad that the Government have listened and responded following their previously abandoned plans to require vaccination status only, and that presenting a negative test will be an option. Can I ask for clarification about whether vaccine passports will be required for access to essential services?

The Minister is correct to say that the greatest tool against the pandemic remains vaccination. How do the Government plan to speed up the booster rollout, which is certainly not hitting the target of 500,000 vaccines a day and is not on track to get everybody boosted by the end of January?

Public health depends and relies on people's willingness to comply with rules that affect their lives, livelihoods and liberties, and which, in return, relies on confidence in the people making those rules. The damage the Government have done to public compliance with the rules that have governed our lives during the pandemic is very serious indeed. We had the Cummings eye test—that seems like years ago—the former Health Secretary's tryst with his special adviser, the former Education Secretary's private party, the Prime Minister attempting to get out of having to isolate, and now the footage of his staff laughing on camera and joking about breaking the rules at a No. 10 Christmas party.

It is hard to overstate how this makes people feel when they have followed the rules and complied, sometimes at enormous personal cost—the businesses that were forced to close; the family weddings that were postponed; the chance to say goodbye to loved ones at funerals that we missed; and the NHS workers, educators and key workers who risked their own health to get us through the pandemic before vaccines and treatments arrived. The headline we saw today is why the laughter in the video from Downing Street is so stomach-turning; it feels as if they are laughing at us.

It is not just that they clearly feel that there is one rule for them and one for everyone else, infuriating though that is; it is the actions of the Prime Minister, which have undermined public trust and distracted from key public messaging at a critical time. This comes from the very top of our country. The problem is that we have a Prime Minister who does not believe the rules apply to him—his own conduct says that—and who also finds it almost impossible to own up, take responsibility and admit that he might have been wrong. The Minister needs to explain to the House how the Government will overcome that.

I was very pleased to hear the news that three doses of the Pfizer/BioNTech vaccine appear to neutralise the new omicron variant, according to preliminary studies; this is very good news indeed. However, it underlines that we have to get more jabs in arms if we are going to make that at all effective.

How will the Government support the people who cannot work from home and who need to continue to go to their workplace? As we know, millions of people who we depend on every day to keep our nation running have continued to go to work throughout the pandemic.

Will the Government set a deadline by which they expect all children to receive their first dose of the vaccine? Will they be able to get them vaccinated over the Christmas period? What are the Government doing to drive up vaccination in areas where there has been low take-up? Are they offering additional support ahead of the winter?

We have discussed in the Chamber before that many critically ill NHS Covid patients are unvaccinated pregnant women. Why is there only one mention of pregnant women in the Government's *COVID-19 Response: Autumn and Winter Plan 2021*? In the Whittington Hospital, of which I am a non-executive director, we have set up a room for pregnant women to deal with the issues they may have about vaccination. The Minister might look at that as one of the ways of dealing with this.

Finally, do the Government accept that, if they have not done enough to drive down infection rates by improving ventilation in public buildings such as schools, they must institute a programme of investment in

[Baroness Thornton]
ventilation in schools? This pandemic is clearly a long way from being over and we need our children to be protected.

Baroness Brinton (LD) [V]: My Lords, I thank the Minister for repeating the Statement. The chaos to even get it heard in the Commons and the very late notice on whether we were having this or Monday's Statement sum up the chaos that the Government find themselves in.

As the noble Baroness, Lady Thornton, outlined, the Government have once again lost the trust of the public. My first question is: how on earth will Ministers persuade people to follow these new, very important restrictions, with the chaos going on at the moment?

We understand that restrictions are disappointing but, from these Benches, we have always said we want people to remain safe. As for these proposals, we have said before and say again that we think the Government are once again late to move to plan B.

I note that the arrangements will remain until 5 January and that there is a sunset clause of 26 January. Please can we debate the regulations before they expire—preferably next week, before we rise for Christmas?

Today, there are 131 new cases of omicron, a rise of a third in one day, taking the UK to nearly 600 cases. This confirms that the doubling rate is between two and three days. Scientists are talking about an R rate of between 2 and 4 and it is also following the same rapid transmission trajectory seen in many other countries. Unfortunately, in the last 48 hours, we have seen that South Africa is now showing increasing hospital and critical care bed admissions, showing that, even if there is less likelihood of serious disease, there is still some serious disease.

Ministers are right to be concerned about superspreader events, which are being reported all over Europe. Assuming that doubling continues at this rate and with a million cases possibly by the end of the year, that is very worrying, as is the news of the lower immunity against omicron from the vaccine compared to delta.

Just this afternoon, Antonio Conte, head coach of Tottenham Hotspur, reported that eight of his first team members and five members of staff have tested positive ahead of a big European game. He said:

"The situation makes me very upset … It's contagious and there is a big infection."

He is right.

The Statement does not mention that there is a higher percentage of young children both contracting omicron and going into hospital in South Africa. What arrangements are being made to ensure that parents recognise that and understand the different symptoms that young children have?

From these Benches we have been urging the Government to move ahead with plan B since cases started rising steadily in September. Today, all cases—of whichever variant—still number over 51,000, with a further 161 deaths. It is vital that we make sure that those numbers do not go up.

Face masks are vital, especially with increased transmission. But do I understand the Minister to say that singing, which we already know is high risk for transmission, will be exempt? On what medical grounds is that sound? I understand that hospitality has exemptions too. Is this taking us back to when you could take your mask off if you were sitting at a table and eating, but had to wear one when you were moving around a pub, bar or restaurant?

Ventilation is vital. Can the Minister say how many schools have received the air filters they were promised a year ago?

I notice that we are moving now to lateral flow tests rather than isolation. Can the Minister say what the current percentage of false negatives is for lateral flow tests and how that is going to be managed?

It makes sense to follow both Scotland and Wales in asking people to work from home if they can. How is that likely to affect the working arrangements on the Parliamentary Estate, including your Lordships' House? In particular, and as a minimum, should the House consider returning to remote voting to avoid noble Lords mixing together in large numbers? We know we have a large number of votes over the next few weeks.

There are also a large number of notable omissions from this Statement. The first is the difficult issue of social care and support for those in homes, or housebound, as well as the staff who look after them. I see that the Statement says that there will be information to follow.

The second is the lack of mention of the Covid app. Given that many people are saying that their third dose or booster dose information is still not being recorded properly, can the Minister say if these difficulties have been resolved? The consequences of having to have Covid certification will affect people from Friday.

Thirdly, there is not one word about the clinically extremely vulnerable: that is 3.7 million people, of whom 800,000 are severely clinically extremely vulnerable. Most of the larger group should have had their booster jabs by now, and should be reasonably protected, but can the Minister say yet if that is true of omicron, especially as no one will have had three doses of Pfizer?

I thank the Minister for arranging our meeting next week to discuss the problems that the severely clinically extremely vulnerable are facing. Doctors are already telling this group that they will have a less good and shorter-lived response—if any—to vaccines. Is there any data on vaccinations for this group and omicron?

Other problems remain, as the Minister will have seen from the responses to my tweet this morning. Many people are still finding that their GPs do not know they should have a third dose, because there is no register and their hospital consultants have not had time to write to every patient's GP. The NHS app still is not recognising third doses. GPs are not sure if it should be eight weeks or 12 weeks between the third dose and the booster.

While the news about the antivirals and retrovirals is good, most CEV people do not want to catch Covid. So above all, following this Statement, where is the specific guidance to both groups who are alarmed by the high number of delta cases, the growing number of

omicron cases, and the marked reluctance of people generally to follow mask guidance. This is not a "nice to have". This is 5% of the population who risk severe disease or dying from Covid. Please can the Minister agree to advise this group in the same way that there will be advice for the social care sector?

Lord Kamall (Con): I will try to answer as many of the noble Baronesses' questions as I can. Regarding the more scientific data and evidence, I hope that Peers have received an invitation—if not, I will make sure that it is sent out—to a call with Dr Jenny Harries and me on Friday, during which we will be providing further details and data. It will be an all-Peers call, so noble Lords can discuss a lot of the scientific facts and evidence.

We are advising that you should work from home if you can. If you cannot, you should take lateral flow tests regularly when attending the workplace. We are requiring the wearing of face coverings in a wider range of settings. If noble Lords will forgive me, I will go into some detail here and, if appropriate, I will place these details in the Library.

Last week, we took the initial step of making face coverings mandatory again in England in shops, including contact services such as hairdressers, on public transport and on transport hubs. We are now going further, requiring the wearing of face coverings in a wider range of locations. Police and community support officers can take measures if members of the public do not comply with the law. Exemptions apply for children under the age of 11 and those unable to wear a mask covering due to health, age, equality or disability reasons.

From Friday, the settings requiring face coverings will be attractions and recreation venues—concert halls, exhibition halls et cetera—cinemas, theatres, museums and galleries. I have a longer list and I am happy to share that as appropriate with noble Lords. Other settings include bingo halls and casinos, snooker and pool halls, skating rinks, circuses, other business ventures such as public areas in hotels and hostels, play and soft play areas, sports stadia, other indoor public venues, places of worship, crematoria, chapels, community centres, public libraries and polling stations.

Places that already require face coverings, just to remind noble Lords, are shops and supermarkets, shopping centres, auction houses, post offices, banks and building societies et cetera, estate agents and letting agents, premises providing personal care, veterinary services, retail galleries, retail travel agents, takeaways without space for consumption, pharmacies, public transport and others.

So, face coverings have been reintroduced. We know that they are effective at reducing transmission indoors. I thank the noble Baroness for the support for these measures. We appreciate it on this side of the House.

It will not be a legal requirement to wear a face covering in hospitality settings, restaurants, cafés, canteens, bars, shisha bars and premises other than registered pharmacies providing medical or dental services, including services relating to mental health, and photography studios. The reasoning behind that, I am sure, will be covered in the call on Friday. I do not have all the details and the scientific evidence to hand, given the late notice of this, but I hope that Dr Jenny Harries can share much of that detail with noble Lords.

On the booster rollout, we have already seen nearly 21 million people take up their booster dose, with 1.9 million people coming forward last week. The NHS vaccine programme is to be extended today. People over 40, along with those in high-risk groups, can take their dose.

I was interested to hear from the noble Baroness, Lady Brinton, that people were still reporting that the booster was not on their app. I was not aware of that. In fact, a number of noble Lords had told me that it was on the app. I apologise for not recognising this—this is the first I had heard of it.

Baroness Smith of Basildon (Lab): The app has crashed.

Lord Kamall (Con): I am told the app has crashed. Thank you. I am being heckled about technology now. I will endeavour to look into that and clearly, the relevant people at NHS Digital can do so too. I will try to report back, probably by the Friday meeting.

The NHS will offer anyone who is eligible their booster jab by the end of January and will contact each group to be vaccinated. In addition, as I am sure a number of noble Lords will appreciate, there have been other settings in their area; for example, a number of pharmacies have erected marquees outside their premises and have rolled out to local communities. There have been partnerships with sports stadiums and places of worship, and I have read of a number of inspiring partnerships that have been formed in order to vaccinate as many people as possible.

We have been working with a number of local community groups, experts and others to try to get to those hard-to-reach communities and those who are more suspicious and less trustful of authority. We are looking at ways to do that. I am also grateful to the many noble Lords who have given me their advice on how we should reach more groups. I continue to welcome that advice, but we stress, as noble Lords across the House recognise, that we really need to roll out the vaccines as much as possible.

On ventilation, oxygen monitors were provided for all state-funded education settings from September so staff can quickly identify where ventilation needs to be improved. Letting fresh air into indoor spaces can help remove air that contains virus particles and is important in preventing the spread of Covid-19. Backed by a £25 million government investment, the new monitors will enable staff to act quickly when ventilation is poor and provide reassurance that existing ventilation measures are working.

The noble Baroness, Lady Brinton, also asked about the immunosuppressed. Shielding was introduced at the start of the pandemic urgently to protect the most vulnerable. While the advice serves the important purpose of safeguarding the most vulnerable people from the risk of infection, this has always been balanced against the significant impact that such restrictive guidance has on individuals' lives and their mental and physical

[Lord Kamall]
well-being. Following the advice, we ended that shielding and are now doing everything in our power to make sure that the severely immunosuppressed are able to get their third dose and that those at higher risk who test positive for the virus will be able to access the novel monoclonal antibody Ronapreve or the antiviral molnupiravir from 16 December.

8.01 pm

Baroness Masham of Ilton (CB) [V]: My Lords, I thank the Minister for repeating this very important Statement. Many people are concerned about taking the booster because they do not know what the result will be of mixing vaccines such as Pfizer and AstraZeneca. Nobody seems able to give advice. It is very worrying. GP surgeries just do not want to know. What can the Minister do about this? Some of these people are elderly, but there are also young people. How can one advise them? They want to speak to a human being, not just a repeated voice which does not answer their questions. Some of these people are pregnant. The ones I talk to are in a rural area; I do my best to tell them how important it is to have a vaccine, but they just want an official voice. I hope the Minister can give some advice.

Lord Kamall (Con): I thank the noble Baroness for that question. As far as I am aware, the places administering the booster should be able to give that advice. For example, when I walked in for my booster, they asked which vaccines I had previously had and said that the half-dose I had was sufficient. When I asked about my children, they told me which vaccine was more appropriate for that age group, depending on which vaccine they had. If that advice is not available at the place of vaccination, please let me know. I was not aware of that and I promise that I can look into it.

While I am here, I realise that I did not answer the question from the noble Baroness, Lady Thornton, about the R number. It is currently at 0.9 to 1.1; the latest growth rate range for England is minus 1% to plus 1% per day. As the omicron data comes in, that may well increase, but we have looked at all these measures and are being as precautious as we can in balancing everything up.

In response to the earlier question about the pass—I apologise for the long answer—I have just been told that the NHS has tweeted:

"We are aware of an issue affecting access to the NHS COVID Pass on the NHS App and website. We are investigating this as a priority and will update as soon as we can".

Clearly, the NHS has been listening to this debate and discussion, and I thank the noble Baroness for raising that. I am sure that noble Lords will agree that that tweet shows the effectiveness of having this debate, so that we can share as much information with the public as possible. I repeat this request: if any noble Lords are aware of any particular problems with the rollout, information et cetera, please let me know and I will investigate as quickly as I can.

Lord Naseby (Con): Last evening, I mentioned to my noble friend the predicament of the 300,000 people who are housebound and cannot go and get a vaccination. I appealed to the Minister, saying that every GP practice knows who these housebound people are and where they live. Will my noble friend now commit himself and the NHS to making sure that every GP practice is asked to go out and give vaccinations to the 300,000 mainly elderly people who are awaiting vaccination?

Lord Kamall (Con): I thank my noble friend for that question. As far as I am aware it has always been the advice that, if people are housebound, they should be able to receive their vaccination in their home. If my noble friend knows of any incidents where that has not happened, please let me know and I will chase them up.

Lord Hussain (LD): We have heard about the advice on face coverings, but could the Minister tell us about social distancing in public places, particularly places of worship?

Lord Kamall (Con): In many public places, advice has been posted about continuing to socially distance, but the main thing is now to wear a face mask and ventilate indoor spaces. But, if social distancing is again seen to be a factor, we will update as soon as we can.

Baroness Fox of Buckley (Non-Afl): My Lords, I did not agree with cancelling Christmas last year: I thought that it was disproportionate and far too risk-averse, based on the evidence then. It was cruel, with millions of front-line workers who had worked their guts out during the lockdowns having their parties cancelled and their family celebrations snatched away. Does the Minister understand what has changed now that the public know they were taken for mugs last Christmas? How can seething citizens, including me, give any credibility to data or a risk-averse plan B being based on evidence, rather than a tactic of political crisis management, which is what it feels like?

Lord Kamall (Con): I understand the frustration of the noble Baroness and a number of civil libertarians, but we have always been clear that we have to have a balance between keeping the British people safe by being cautious and making sure that we follow the data. We have always looked at a number of different factors, including hospitalisations, the proportion of admissions due to infection, the rate of growth in cases, vaccine efficacy and many others—but, quite clearly, when we see this doubling rate of the omicron variant and do not yet have enough data, we are being cautious. By doing this now, we could prevent a worse situation later.

Baroness Blake of Leeds (Lab): My Lords, when you go on to your app, you do indeed get a message that says, "There are currently issues with accessing the Covid pass on the NHS app and the website". Given that the advice is that this mandatory certification will be required from Friday, this is an issue not only for the individuals trying to access the certification but for the venues. Can the Minister assure us that, if the problem continues, there will be clear advice to venues as well? Otherwise, there will be untold chaos when this comes in on Friday.

Lord Kamall (Con): The noble Baroness makes an important point. Let us hope that the NHS will fix it. As the NHS says, it is aware of the issue and will try to fix it and update as soon as possible. But, clearly, if that is not possible, we will have to update the guidance, and I will take that back to the department.

Baroness McIntosh of Pickering (Con): My Lords, I think that my noble friend said that the peak of the omicron infection rate is expected in January. Will he confirm that the lateral flow testing will last through January to March if that is the case? Will he join me in congratulating the Dispensing Doctors' Association, with which I declare my interest as an adviser, on rolling out specifically the programme to which my noble friend Lord Naseby referred of vaccinating the housebound? Can he look into the fact that the Covid pass that is issued reflects only two vaccines and not the booster vaccination?

Lord Kamall (Con): I pay tribute to my noble friend for making us aware of the dispensing doctors, and for making people like me, who are much more urban-centred, aware of some of the issues in rural areas. On the Covid pass, up to now, in most countries it has not been a requirement to have the booster shown in order to travel. Clearly, all countries will now be updating their travel requirements and restrictions. I am afraid I have a terrible short-term memory. What was the first question?

Baroness McIntosh of Pickering (Con): Lateral flow tests.

Lord Kamall (Con): Yes. Given the advice on testing, especially if you are pinged and have to test, clearly we will make sure that there are sufficient tests available.

Baroness McIntosh of Hudnall (Lab): My Lords, can the noble Lord say a word about enforcement? In my observation of the use of face masks on London transport, for example, compliance has increased significantly in the past week, so there is a disposition on the part of many people travelling to comply. But there are still a significant minority—and that minority is important—who do not comply and do not appear to carry or exhibit any evidence of exemption. Will people whose job it is to ensure that people on public transport or elsewhere are wearing masks get the help and guidance they need to understand where the limits of their powers might be?

Lord Kamall (Con): Enforcement has been a constant concern throughout, and workers have been concerned about having to enforce. The police and certain transport operators may issue fixed penalty notices to those who refuse to wear a face covering when required to do so and are not exempt or do not have a reasonable excuse. This will be used only as a last resort. The fines will start at £200, which will be halved if paid within 14 days. For repeat offenders, the second offence will be £400, the third £800, the fourth £1,600, the fifth £3,200, and the sixth and subsequent offences £6,400. The price mechanism will be used as a deterrent, but I am sure that the authorities will exercise discretion, so they may give an informal warning first, as has happened. They can also take measures if members of the public do not comply with this law without a valid exemption. They can deny access to public transport services, and direct someone to wear a face covering or leave a service if they are not wearing one without a legitimate reason.

Lord Fox (LD): My Lords, the Government are effectively outsourcing a lot of the policing of this to the businesses of this country—small, medium and large. Those businesses will not be able to do that unless they have a full understanding of what is expected of them, full public backing from the Government that they have to do this and details of how they will be helped. I understand that it is not the Minister's portfolio, but I ask that he takes this to both BEIS and the Treasury and that we get quick answers for British businesses, which have to police vaccine passports and the use of masks all over this country for this policy to have any reason at all.

Lord Kamall (Con): I thank the noble Lord; we had a conversation earlier about the importance of business and of informing businesses as quickly as possible, and the important role that they play. It is clear that the police and transport operators have fixed penalty notices. We know how sometimes it can be difficult for individuals, particularly in retail, to enforce the law—that they are worried about being seen as police officers. But we hope to make it clear that it is an offence not to wear a mask in places where you are required to do so, and we are issuing further guidance on that. I will take the matter back, as the noble Lord says, and get a cross-governmental response.

Lord Patel (CB): My Lords, I cannot resist this: my app did not crash because it is Scottish. Can the Minister clarify the government advice to work from home if he can? Is the advice that you should or that you could? Secondly, what advice do the Government have for people who have recovered from Covid on the risk of them spreading the virus, and for how long?

Lord Kamall (Con): I am pleased to hear that someone's Covid app has not crashed. I am not sure if it is due to Scotland or if that is a coincidence; some of the people in the devolved Administrations may want to raise that with me. The guidance is that you should work from home if you can, but clearly there are some issues. I know that there were mental health and other issues before, but that is the guidance. On the medical question, I hope that the noble Lord will join the all-Peers meeting with Dr Jenny Harries on Friday, when he will be able to put that question to her. If not, he should write to me and I will put that question to her.

Baroness Neville-Rolfe (Con): I thank my noble friend the Minister for making a timely Statement, for the boost to the booster programme and for progress on Covid drug treatments. All are very important to our families and friends, and to the country. Against that reassuring background, I think that some of this evening's comments were a bit over the top and, I have to say, my NHS log-in leapt into life as the Minister was speaking, so it looks as though it is back on track. I have two questions for him. The first is for an update

[Baroness Neville-Rolfe]
on cancer cases, especially the outstanding number of cancer operations and hospital treatments, and the impact of plan B on their throughput. My second concern is the economic impact of these new measures until the sunset date of 26 January. We have working from home, vaccine passports and enforcement of masks, which will hit travel, entertainment, business, hospitality and so on. What is this wider economic hit? The Government will not publish impact assessments, as they should, despite my efforts to persuade them, but can the Minister expand on the economic aspects and the impact on growth, employment and productivity? The country is indebted as a result of Covid—and the hit has been 10% over the last year—and businesses have been hit by this. We have to look at the economic side as well as the disease control side, which he dealt with so well.

Lord Kamall (Con): I thank my noble friend for making those two important points. As we know from what happened previously, as a consequence of lockdown, many people were unable to have operations or even diagnoses. In fact, much of the waiting list—80%—is for diagnosis. It is too early to tell what the impact will be, but I will find out and write to her. It is quite clear that there will be a negative economic impact. I do not think one has to be the former head of research for an economic think tank to say that, but it depends on how long this lasts and what economic activity continues in the meantime. I will look at that.

Lord Kakkar (CB): My Lords, the Minister rightly made the point that two variants will shortly be circulating in high volume—the delta and omicron variants. Is he content that there is sufficient genomic sequencing capacity to distinguish between the two and, therefore, understand the epidemiology and the natural history of the two competing virus strains, at a basic level?

Lord Kamall (Con): I attended a meeting this afternoon with leading epidemiologists, showing the data and separating the omicron variant, the delta variant and the original coronavirus. They have the data, and one of the reasons we have made this announcement is because we are able to distinguish between them. We are constantly reviewing the data for the original coronavirus and the variants but, if the noble Lord has any more scientific or medical questions, he should let me know or attend the briefing with Jenny Harries on Friday.

Lord Scriven (LD): My Lords, the Statement says that the Government are looking to introduce daily tests for contacts instead of self-isolation. I have a couple of questions. My noble friend Lady Brinton asked what the false negative rate is for lateral flow tests at the moment. Secondly, what will be the legal obligation for a person to take this test and then to upload the result so that people know that contacts are taking the lateral flow test?

Lord Kamall (Con): I am not quite sure about the latest data, because clearly more people have been taking them, but accuracy was in the very high 90s. However, I will commit to write to the noble Lord. On his second question, I will make sure that we get that information out as quickly as possible.

Police, Crime, Sentencing and Courts Bill

Report (1st Day) (Continued)

8.20 pm

Clause 7: Duties to collaborate and plan to prevent and reduce serious violence

Amendment 2

Moved by ***Lord Sharpe of Epsom***

2: Clause 7, page 9, line 15, at end insert—

"(za) publish the strategy,"

Member's explanatory statement

This amendment requires specified authorities to publish a strategy prepared under Clause 7.

Lord Sharpe of Epsom (Con): My Lords, this group of amendments responds to various recommendations made by the Delegated Powers and Regulatory Reform Committee. I am grateful to my noble friend Lord Blencathra and the other members of the committee for their careful scrutiny of the Bill. These amendments address issues across the Bill, but I hope the House will agree that it would be convenient to take them together.

Amendments 2 to 10 in Clauses 7 and 8 give effect to the DPRRC's recommendation that provision for the publication of local strategies to prevent and reduce serious violence should be made in the Bill rather than in regulations. The amendments therefore require relevant authorities to publish their strategies, but this is subject to certain safeguards. These safeguards are that material should not be included in the strategies if the specified authorities consider that it might place the safety of any person in jeopardy, prejudice the prevention and detection of crime or the investigation or prosecution of an offence, or compromise the security of, or good order or discipline within, an educational, prison or youth custody authority. I am sure that noble Lords would agree that these are important caveats.

Amendments 36, 42, 65 and 95 respond to recommendations by the DPRRC relating to the parliamentary scrutiny of statutory guidance. Here we have accepted the committee's recommendations in part only. There are various powers in the Bill for the Secretary of State to issue guidance in relation to the serious violence duty, offensive weapons homicide reviews, powers to tackle unauthorised encampments, and serious violence reduction orders. The DPRRC recommended that such guidance should be subject to the negative procedure, or, in the case of the SVRO guidance, the affirmative procedure.

The purpose of guidance is to aid policy implementation by supplementing legal rules. A vast range of statutory guidance is issued each year and it is important that guidance can be updated rapidly to keep pace with events. There is nothing to prevent Parliament scrutinising guidance at any time. It is therefore the Government's view that it is not necessary to make specific provision for parliamentary scrutiny for most forms of statutory guidance, and there are plenty of precedents for this approach. To take one

recent example, the Domestic Abuse Act 2021 enables the Secretary of State to issue guidance to the police in relation to domestic abuse protection orders; they are required to have regard to the guidance. Such guidance is not subject to any parliamentary procedure, and the DPRRC did not comment on that fact when the legislation was going through this House last Session.

Amendments 67 and 68 relate to the powers to attach conditions to a diversionary or community caution, specifically those which relate to the maximum hours of unpaid work, number of attendance hours and level of financial penalty. Clause 100 as currently drafted provides that only regulations increasing the maximum financial penalty and the maximum number of unpaid work or attendance hours attached to a caution will be subject to the affirmative procedure. The DPRRC recommended that regulations decreasing these maxima should also be subject to the affirmative procedure and, having considered the committee's arguments, we agree.

Finally, Amendment 83 responds to the committee's recommendation that the power for the Secretary of State to activate a problem-solving court pilot indefinitely should be subject to the affirmative resolution procedure. This amendment gives effect to the committee's recommendation by separating the power to extend indefinitely from additional powers granted to the Secretary of State under Schedule 13. As such, this amendment ensures that the Secretary of State's power to specify which courts are pilot courts for the 18-month pilot period, the cohort of offenders to be subject to the pilot arrangements, and the ability to extend a pilot for a specified period of time, will continue to be subject to the negative procedure.

I am sorry that the noble Lord, Lord Blencathra, could not be here today.

Noble Lords: He is here.

Lord Sharpe of Epsom (Con): He is here—my apologies. In light of all I have said, I hope the House would agree that we have responded positively to the relevant recommendations from the DPRRC and will support these amendments. I beg to move.

Baroness Whitaker (Lab): My Lords, I speak on behalf of my noble friend Lady Lister, who had to go to catch her train because of the postponements, and also on my own behalf.

We wanted to raise a point on government Amendment 56, which, as the Minister said, requires guidance for the police on unauthorised encampments to be laid before Parliament. This is of course welcome, but my noble friend says that she wanted to return to the current draft guidance statement that the police, alongside other public bodies,

"should not gold-plate human rights and equalities legislation"

when considering welfare issues.

When she pressed the noble Baroness, Lady Williams, on this in Committee and asked her what it meant—because, on the face of it, it appears to be an invitation to put human rights and equalities considerations to one side—I believe the noble Baroness, Lady Williams, said that the phrase was "novel" to her and she wrote to my noble friend Lady Lister about it.

In her letter, she explained that this phrase had been used in government guidance on unauthorised encampments since March 2015. But, when my noble friend Lady Lister followed the link in the letter to this guidance, it turned out to be called:

"A summary of available powers"—

which we do not think quite amounts to statutory guidance, and therefore perhaps was not subject to consultation at the time. Certainly, members of the Joint Committee on Human Rights were not aware of it, because they wrote a very forceful letter to the Minister on 17 November in which they

"strongly advise that the Government reviews the language and tone of its draft guidance with respect to its human rights obligations. Human rights are a minimum standard, which apply to all people equally. We do not and cannot 'gold-plate' human rights."

Likewise, the British Association of Social Workers has written:

"We do not accept that this"—

gold-plating—

"is reasonable guidance. The wording is of no assistance to social workers or other professionals."

It sees it as a

"disturbing attempt to water down fundamental human rights in relation to Romani and Traveller people".

In her letter, the Minister wrote of the

"necessary balancing of the interests and rights of both Travellers and settled residents".

But we ask her—or the appropriate ministerial colleagues—to look again at this wording in the light of the JCHR's and the British Association of Social Workers' responses. It would appear that they were not consulted when the "gold-plating" phrase was originally used in 2015 and I ask now whether anyone was consulted.

Also, does the 2015 document constitute statutory guidance as such? If the answer is no in either case, that strengthens the case for reconsidering the use of the term. As the body established by Parliament to provide an oversight of human rights issues makes clear, human rights

"must not be side-lined or undermined for administrative convenience".

Will the Minister therefore give an undertaking to look again at this, ask the relevant Minister to do so, and report back to us before the Bill completes its passage through this House?

8.30 pm

I would like to add that I do feel very uneasy about the use of the term "gold-plating" in statutory guidance about how to enforce law, especially human rights law. The term "gold-plating" does not exist in law and there are no provisions for discretion in the Human Rights Act. The purpose of guidance is to give clarity, and I am afraid that a loose term such as this, giving rise to harmful concepts about different tiers of compliance, undermines clarity. I ask again: what consultation was carried out on this draft guidance? I hope, as it is still a draft, that the Government can get rid of this legal illiteracy.

Lord Blencathra (Con): My Lords, first, I apologise to my noble friend for wrongfooting him. I arrived about 15 minutes ago, having sent a message to the Front Bench earlier today that, since my train was going in slow motion because of wind on the line, I was likely to be here rather late. My message was to thank the Government, the Home Office and my noble friend Lady Williams of Trafford, who took on board the criticisms that the Delegated Powers and Regulatory Reform Committee made. I have the privilege of being chair of that committee for the next three weeks only—so the Government can rest in peace afterwards.

We made a large number of recommendations and, to be fair, the Home Office took them on board and my noble friend has accepted the majority of them. That is a good message to send to other departments. It goes to show that, when my committee makes recommendations, they can be accepted by the Government, because they do not sabotage the Bill or stop the political thrust of what the Government are trying to do. At the very most, our most extreme recommendations may mean that some bit of delegated powers legislation might be debated for 90 minutes in the affirmative procedure—never under the negative, unless it is prayed against—which will mean a Minister having to host a debate for 90 minutes. It will probably be a Lords Minister, because the Commons possibly will not bother. So it can be done.

The only substantive comment that I wish to make is about my noble friend using the standard excuse—although he used it in a more delicate way—that we hear from most departments when they refuse to accept that the guidance to which one must have regard should be seen by Parliament. Some departments take a much more arrogant attitude and say, "Oh, well, we publish lots of guidance every year and we consult the stakeholders and experts, so we don't need to trouble you people in Parliament who know nothing about it". That is not quite what they say, but that is the thrust of it. I had a tremendous success last week, when I had a two-word amendment accepted by the sponsor of the Bill and the department—and those two words were "by regulations". The clause said that "guidance that must be followed will be issued", and we inserted the words, "by regulations". That made no difference to the practical effect of the Bill.

The other justification that we often hear is, "Oh, we issue a lot of guidance, you know, and it has to be changed rapidly". I am not suggesting that it applies to this guidance, but a lot of that is simply not true. If the guidance has to be changed rapidly, it has to be printed and issued. All we say in that case is "Put it in a negative regulation which Parliament can see, and only those who have an interest, or the Opposition, may move a prayer against it".

We issued a strong report last week, and so did my noble friend Lord Hodgson of Astley Abbotts, from the Secondary Legislation Scrutiny Committee. My committee issued a report complaining strongly about disguised legislation, where the Minister not only has power to issue his own regulations but they are called "directions", "protocols" and so on. That is disguised legislation. We also complained about skeleton Bills. If you want to see a skeleton Bill, look at the new Bill on healthcare, where there are about 150 delegations. The Bill has no guts—that will be filled in by legislation later.

I hope that my noble friends will speak to the Department of Health and the Ministers there. I have no idea what our committee will report when we look at the Bill next week, but I suspect that we will be highly critical of the contents. I hope that my noble friend the Minister, coming from the Home Office, can tell the Department of Health to follow our example. If we in the Home Office, one of the mightiest departments of state, can accept the vast majority of suggestions from the Delegated Powers Committee, other departments can do so too, knowing that their legislation is safe. We do not sabotage it and we do not try to stop it. We have no political input on the merits of the Bill; we leave that to noble Lords here. However, we do care about inappropriate delegations.

Having read the riot act on that, I thank my noble friends on the Front Bench for the considerable changes that they have made on this—and I just wish that they would go a wee bit further and accept the last one.

Lord Beith (LD): My Lords, the noble Lord, Lord Blencathra, just illustrated the value of his service as chairman of the Delegated Powers and Regulatory Reform Committee, which the House should thank him for—but in the knowledge that his successor is unlikely to give the Government peace because this is an area where all Governments need to be brought up to the mark. His more wide-ranging report last week illustrates this, and I will refer to it briefly in a moment.

It is good to be in the part of the Bill where the Government have listened, both to the Delegated Powers Committee and to the House itself, where voices were raised, particularly on the issue of the publication of the strategy on serious violence for which provision is made in the Bill. It really does not make sense for a strategy to exist which is not published and which therefore cannot be the subject of accountability. That was quickly recognised by Ministers at the Dispatch Box here. They have acted in accordance with that and I very much welcome that. They have met the objections to publication by specifying areas in which there must be a bit more care about what should not be published because of adverse consequences for the public interest, over things such as custodial institutions and other ways in which material could be released in a way which would be damaging to the general public interest.

That is one area where I am pleased that the Government have listened. I am also pleased that in a number of respects, if not quite all, the Government have responded on issues of laying guidance before Parliament and on providing a parliamentary procedure, either negative or affirmative, for some of the instruments. I will say in passing, however, that laying guidance before Parliament is a bit of a formality. Unless Members of one House or the other find a way of debating it—it is a little easier in this House than the other—laying it before Parliament does not achieve anything practical, whereas having a procedure in the House, defective though the negative procedure is, is much more useful. In most respects that request has been met.

Producing a list of previous legislation which was deficient in this respect is not a persuasive answer to the challenging issues raised by the Delegated Powers and Regulatory Reform Committee and the Statutory Instruments Committee. It is generally recognised that there is a serious deficiency which has been allowed to grow as the scope of legislations has extended. Things which have the practical effect of legislation have become more numerous, but Parliament has not developed effective procedures to ensure good scrutiny and to ensure that the neo-legislation is in workable and legally sound form.

As the committee said in its wider report, if, because of modern conditions, Parliament is being asked to accept new ways of legislating, it is surely right that the Government must stand ready to accept new methods of scrutiny and of being held to account. So, like others, we take the view that there is now an urgent need to take stock and rebalance their relationship. This Bill has arrived at the beginning of that very important process, but it is encouraging that Ministers have at least responded in a number of key respects, and I welcome that.

Lord Paddick (LD): My Lords, noble Lords have already comprehensively covered the ground, and I am especially grateful to the noble Lord, Lord Blencathra, and his Delegated Powers and Regulatory Reform Committee, and to the Government for listening to that committee, and to the concerns that were expressed in Committee, and by the Constitution Committee and the Secondary Legislation Scrutiny Committee.

We are concerned that simply laying guidance before Parliament is not sufficient. It should be by regulations, as the noble Lord has said. However, we are pleased that the Government have listened to some extent and we support these amendments.

Lord Rosser (Lab): My Lords, I too will be brief. As has been said, this group includes government amendments relating to recommendations from the Delegated Powers and Regulatory Reform Committee that the Government have accepted. It includes the requirement that strategies under the serious violence reduction duty are published, and that guidance on the series violence duty, police powers under Part 4 and serious violence reduction orders must be laid before Parliament. However, the Government have not accepted every recommendation of the DPRRC, and on some they have gone only half way. For example, the DPRRC recommended that guidance on serious violence reduction orders should be subject to the affirmative procedure, but the Government have made it subject only to the negative.

Like other noble Lords, I extend our thanks to the noble Lord, Lord Blencathra, and the Delegated Powers and Regulatory Reform Committee for the invaluable work that they do and no doubt will continue to do. We welcome the amendments in this group that go some way towards accepting a number of recommendations from the DPRRC, but it is interesting to note that, in its report on the powers in the Bill to introduce unpublished strategies and guidance without parliamentary scrutiny, the DPRRC said:

"We are disappointed that the inclusion of these types of delegations of power—on flimsy grounds—suggests that the Government have failed when preparing this Bill to give serious consideration to recommendations that we have made in recent reports on other Bills."

This group of amendments introduces some improvements into the Bill, which we welcome. On that basis, we hope that the Government will be in listening mode over the next few days of debate on Report. Perhaps the next Bill that appears before us will not have such powers in it to begin with.

Lord Sharpe of Epsom (Con): I thank all noble Lords who have participated in this brief debate. I do not know whether my noble friend Lord Blencathra was in his place when I started speaking, but I was praising him and his committee—I also praise him for his stealthy entrance. He asked about statutory guidance. As I said in my brief introduction, all the guidance will now be laid before Parliament, as the noble Lord, Lord Beith, noted, and the SVRO guidance will be subject to the negative procedure.

The noble Baroness, Lady Whitaker, asked the most detailed question, on behalf of her noble friend Lady Lister. She asked specifically about the comments on the gold-plating of human rights. I have a copy here of the letter that was sent to the noble Baroness, Lady Lister, and it is very clear that this is about balance:

"This language has been used in HM Government guidance on unauthorised encampments since March 2015,"

as the noble Baroness noted, but it was not statutory guidance; the Bill now provides this.

"That guidance made clear that human rights legislation does not prevent action to protect local amenities and the local environment; to maintain public order and safety; and to protect public health - for example, by preventing fly-tipping and criminal damage.

The necessary balancing of interests and rights of both travellers and settled residents reflects the position regarding qualified rights in the Human Rights Act 1998/European Convention on Human Rights … and the need to maintain good community relations under the Equality Act 2010. But operationally in the past, this may have been misunderstood by some public bodies."

We have published in draft the guidance to be issued under Clause 65, so it is open to anyone who wishes to comment on the document to do so. We will, of course, continue to take any such comments into account before promulgating the final version of the guidance. With that, I hope that I have answered the questions, and I beg to move.

Baroness Whitaker (Lab): Before the Minister sits down, who was consulted on this "gold-plating" terminology?

Lord Sharpe of Epsom (Con): I am afraid I do not know; it goes back to 2015. We will look it up for you.

Amendment 2 agreed.

Amendments 3 and 4

Moved by ***Lord Sharpe of Epsom***

3: Clause 7, page 9, line 17, at end insert—

"(7A) A strategy under this section must not include any material that the specified authorities consider—

(a) might jeopardise the safety of any person,

(b) might prejudice the prevention or detection of crime or the investigation or prosecution of an offence, or

(c) might compromise the security of, or good order or discipline within, an institution of a kind mentioned in the first column of a table in Schedule 2."

Member's explanatory statement

This amendment means that specified authorities may not include certain material in a strategy published under Clause 7(7) as amended by the amendment in the name of Baroness Williams of Trafford at page 9, line 15.

4: Clause 7, page 9, line 20, after "make" insert "further"

Member's explanatory statement

This amendment clarifies that regulations under Clause 7(9) may make further provision about the publication or dissemination of a strategy.

Amendments 3 and 4 agreed.

Clause 8: Powers to collaborate and plan to prevent and reduce serious violence

Amendments 5 to 10

Moved by ***Lord Sharpe of Epsom***

5: Clause 8, page 10, line 37, leave out "may"

Member's explanatory statement

This amendment and the amendments in the name of Baroness Williams of Trafford at page 10, line 37, page 10, line 38 and page 10, line 39 have the effect that specified authorities are required to publish a strategy prepared under Clause 8.

6: Clause 8, page 10, line 37, at end insert—

"(za) must publish the strategy,"

Member's explanatory statement

See the explanatory statement for the first amendment in the name of Baroness Williams of Trafford at page 10, line 37.

7: Clause 8, page 10, line 38, at beginning insert "may"

Member's explanatory statement

See the explanatory statement for the first amendment in the name of Baroness Williams of Trafford at page 10, line 37.

8: Clause 8, page 10, line 39, at beginning insert "may"

Member's explanatory statement

See the explanatory statement for the first amendment in the name of Baroness Williams of Trafford at page 10, line 37.

9: Clause 8, page 10, line 39, at end insert—

"(8A) A strategy under this section must not include any material that the specified authorities consider—

(a) might jeopardise the safety of any person,

(b) might prejudice the prevention or detection of crime or the investigation or prosecution of an offence, or

(c) might compromise the security of, or good order or discipline within, an institution of a kind mentioned in the first column of a table in Schedule 2."

Member's explanatory statement

This amendment means that specified authorities may not include certain material in a strategy published under clause 8(8) as amended by the second amendment in the name of Baroness Williams of Trafford at page 10, line 37.

10: Clause 8, page 10, line 40, after "make" insert "further"

Member's explanatory statement

This amendment clarifies that regulations under Clause 8(9) may make further provision about the publication or dissemination of a strategy.

Amendments 5 to 10 agreed.

8.45 pm

Amendment 11

Moved by ***Baroness Meacher***

11: Clause 9, page 11, line 45, leave out from "legislation" to ", or" in line 47

Baroness Meacher (CB): My Lords, I rise to move Amendment 11, and speak to Amendments 22, 25 and 30. I thank the Minister for our very helpful meeting this morning, and for the detailed letter I received at 4 pm. I have carefully considered the points raised, and reread the letter to ensure I had understood it, but the basics facts remain the same—as I think the Minister realises—and I will do my best to explain them.

My comments also apply to Amendment 25, but I will focus on the three identical amendments to the three clauses. They ensure that disclosure of information by one public body to another under Part 2 of the Bill does not contravene data protection legislation. This is an incredibly important principle, yet the data sharing provisions in Part 2, as the Bill stands, would enable data protection legislation to be breached. Data protection legislation does permit information to be shared for the purposes of preventing crime, which is important too. If Amendment 11, along with identical Amendments 22 and 30, is passed, personal data could be passed to be police, but professionals could not be forced to do so against their professional judgment. That is the key principle we want to achieve.

The Minister's letter says that the data shared under the duty is intended primarily to consist of aggregated and anonymous data, et cetera. But we have to focus on what the Bill says, rather than what our excellent Minister may intend. As I said to her this morning, if our Minister were Home Secretary, I might be content with the wording in the Bill, on this issue—I am not sure about everything else—as I have great respect for both our Ministers.

The Minister also says the duty applies to duty holders, not directly to front-line professionals, including youth and social workers. But it is these professionals who hold the information which the police may find helpful, not directors of social services, for example.

It is vital that, if we are to deal with serious violent crime, we do not undermine prevention work. It is therefore important that young people trust their teachers and youth workers. We believe these professionals must be able to exercise their professional judgment about whether it is more effective and important, in preventing serious violence, to be able to continue working with vulnerable and potentially dangerous young people to steer them away from drugs and crime, or to pass on information to the police. There will be times when the sharing of information with the police may be the first, and immediate, priority. However, if in the professional judgment of the teacher or youth worker working with the young people is the top priority, then she or he must be able to exercise that judgment, in my view.

The Minister is likely to argue that the modification of the disclosure of information legislation envisaged in the Bill is similar to that in other Bills and therefore

should be accepted. We had a lengthy discussion on that issue this morning. On checking these other Bills it appears the context is quite different, as is the nature of the information that may be shared. The closest example is the Environment Act, which uses similar wording to that in Clause 9, under which information sharing may be required. However, in the Environment Act, this relates to whether public authorities are complying with environmental legislation; it has nothing to do with personal information for law enforcement purposes, which is an entirely different matter. The Medicines and Medical Devices Act only requires information to be shared without consent in a veterinary context—you cannot really ask a cow for her consent to pass on information about her. Therefore, this is not relevant to this Bill.

It seems the Government may not have drawn the right conclusions from the criticism of the Met Police's gangs matrix system. As the Minister knows, Corey Junior Davis was murdered after his details in the Met Police's gangs matrix were shared and fell into the wrong hands.

The system that produced that breach is being reproduced in the Bill. Surely, we will see replicated across the country other harms generated by the Met Police's gangs matrix: young people losing college places that would probably have given them a route out of trouble; the application of eviction notices likely to lead them on a downward spiral of drugs and crime; and endless costly and pointless stop and searches, thereby undermining young people. We could also expect a repeat across the country of the discriminatory profiling that was inherent in the Met Police's gangs matrix.

I very much welcome the Government's acceptance of the need to respect the professional judgment of medical and social care personnel. All that we are asking for in the amendment and, indeed, the other two in the group is that the same respect for personal judgment be applied to teachers and youth workers as the Government now recognise should be given to doctors and others. Without these amendments, the work of the key public servants to prevent serious violence will be jeopardised, an issue that I should have thought the Government would be concerned about.

The Bill also gives the police the power to monitor compliance with the duty to require other bodies to share information with them, and it gives the Secretary of State enforcement powers to back those police powers. The amendment offers vital protection for professionals in exercising their judgment on how best to reduce serious violence by their clients.

The Minister has said that the collection of data is necessary in order to identify the kinds of serious violence that occur in an area and, so far as it is possible to do so, their causes, and then prepare and implement a strategy with bespoke local solutions. I am sure that the Minister knows that no personal information is required in order to do that. It is well established that anonymous data is sufficient to develop appropriate strategies. The draft statutory guidance says that most information will be depersonalised, but it does not say in what circumstances it will not. If it were clear that it was all about professional judgment, that would be fine—and that is what we are seeking.

These are incredibly modest amendments that, added to the government amendments, would go some way towards protecting the efficacy of our public services and enable young people to benefit from preventive and therapeutic interventions. These are the best hope of preventing serious violence over many years. We are not talking just about a one-off crime here. We are talking about the culture and style of life, and these public servants are working on the front line to try to divert these young people into education, training, jobs and so on. Instead of doing that, it is a huge thing to somehow divert those people into the criminal justice system. Punitive responses are never the right answer to vulnerability and deprivation—generally the backdrop to serious violence.

Baroness Brinton (LD) [V]: My Lords, I thank the Minister and her officials in the Home Office and the Department of Health and Social Care for meeting me, the noble Lord, Lord Ribeiro, the General Medical Council, the British Medical Association and the National Data Guardian, and for listening carefully and agreeing that a patient's personal information should not be disclosed under regulations made under Clauses 9, 15 or 16 by a health or social care authority, which currently includes a clinical commissioning group in England and a local health board in Wales, or under regulations made under those clauses. However, I wonder whether the Minister can help me and confirm that Clause 17, where the Secretary of State can instruct the transfer of information, even if a specified authority refused, will definitely not apply to patient data.

I am entirely supportive of the amendments in the group tabled by the noble Baroness, Lady Meacher, the right reverend Prelate the Bishop of Manchester and my noble friend Lord Paddick. While I am grateful that the Government have recognised that there is something particular about a patient's personal health data, there still remains the issue relating to staff in a specified authority being asked to hand over personal data to the police and other bodies. There are some roles, such as youth workers and children's home workers, where trust has had to be built up with the people who come to them. Any data relating to those at-risk people, whether potentially violent or potential victims, should not do anything to harm that relationship. As the noble Baroness, Lady Meacher, has said, anonymised data can be used.

As we know from doctors' and nurses' ethical arrangements, there are exceptional times when it is important for such information to be passed to the authorities. I believe that we can rely on the workers in other sectors to see that responsibility. Amendment 24 specifically sets out the ethical and legal rules that should apply.

Finally, I believe that the Secretary of State should not have these powers, however rarely they might be used, so I also support my noble friend Lord Paddick's Amendment 35.

The Lord Bishop of Manchester: My Lords, I rise to support the amendments in my name and those of the noble Baroness, Lady Meacher, and the noble Lord, Lord Paddick. I draw your Lordships' attention to my interests in policing ethics and my work with the

[The Lord Bishop of Manchester]
National Police Chiefs' Council, as set out in the register. I trust that those interests assure your Lordships that I am a strong supporter of effective policing, not its adversary.

As an occasional statistician, I am also well aware of the power and utility of data. Good data, including on the risks of serious violence, can provide the evidence that allows the limited resources of our police forces to be directed to the particular challenges faced in different contexts and localities. Perhaps it is because I trained not as a lawyer but as a mathematician that I hold firmly to the maxim that, before one can begin to find the right solution, one has to have clearly defined the problem. I am not sure that these clauses, as presently drafted, fully pass that test.

If the problem is that there are occasions when the sharing of personal data will be necessary in order to detect or prevent serious violence, such powers already exist. Indeed, they go further than simply applying to certain public bodies. Like all of my right reverend and most reverend friends on these Benches, I am a data controller—a fancy title—handling often very sensitive personal information regarding clergy, church officers and children who are in the care of churches. I know my general duties regarding when I ought to disclose such data to police or others. When I need specific advice, I have access to my legal secretary, my diocesan safeguarding adviser and others. It is difficult to see what a new duty on some public bodies to share identifiable personal information will add to this.

Alternatively, if the problem is the need to collect and process data sets that allow the setting of more general policing priorities and interventions, it is difficult to see why that cannot be done in ways that remove all identifiable personal details and hence are entirely compliant with the GDPR and other data protection law. I struggle to see why there is a need to create an opt-out for the anonymised data that can drive better policing.

The amendments that I and others have put our names to would, I believe, strengthen the Bill, making it clear that it is seeking not to set aside data protection law but to allow anonymised data to be shared where this will produce better policing outcomes. They would reassure children, vulnerable people, victims of crime and others that their personal data will not be shared, beyond that which is already shared under existing legislation. They would allow youth workers, whether they are employed by the Church, local authorities or whomever, to continue to be trusted by those who come to them.

As has been alluded to, the noble Baroness, Lady Williams—who, were it not for the particular protocols of this place, I would be proud to refer to as my noble friend—has already accepted the principle that health bodies should not be compelled to share patient data. It is not a huge leap to extend that to other authorities.

Lord Paddick (LD): My Lords, I have Amendments 24 and 32 to 35 in this group, and I have signed Amendments 11, 22, 25 and 30, in the names of the noble Baroness, Lady Meacher, and the right reverend Prelate the Bishop of Manchester.

I start with the government amendments that effectively protect patient confidentiality on the basis that, if patients do not trust their doctors to keep sensitive personal information confidential, they will not seek healthcare when they need to. There are already protocols to deal with situations where there is a serious risk of harm to the patient or others which allow the sharing of information. In moving these amendments, the Government have accepted the principle that professionals need to keep sensitive personal information confidential in order to maintain the trust of those whom they are working with. I will return to this shortly.

Amendments 11, 22 and 30 do the bare minimum in maintaining the protection provided by data protection legislation. This is putting down a marker that specified authorities should not simply allow the duty to share information under the serious violence duty to override everything else. We will support these amendments if the noble Baroness, Lady Meacher, divides the House.

But we do not believe these amendments go far enough, in that they do not address the Secretary of State's enforcement powers. Despite government protestations to the contrary, the almost unanimous view among NGOs is that the new serious violence duty is actually a duty on specified authorities to give information to the police, so that the police can try to arrest our way out of the problem of serious violence—an enforcement-led approach, which even the Commissioner of the Metropolitan Police says is not the solution. What we really need is a truly multiagency public health approach, which has worked so well in Scotland, where enforcement is only one part of the solution .

9 pm

When I went to Scotland, I met a young father whose partner had committed suicide; he realised that their son would grow up without either of his parents if he did not turn away from violence. With support from relevant authorities, he has done it. How can offenders such as this be expected to trust those in authority when specified authorities are subjected to this new duty to pass what is said to them on to the police, if they are to override existing statutory safeguards and duties of confidence? The Bill would allow the Home Secretary to force them to break that trust.

As noble Lords have already said, the Government have already conceded the principle that in certain situations, guided by existing rules and protocols, information can be kept confidential, as in the case of patient confidentiality. However, sometimes people such as youth workers, social workers or people working in youth offending teams also need to be able to use their judgment about whether to pass information to the police, if they think keeping the trust of the person they are working with is more likely to reduce serious violence than passing that information on. I will be asking noble Lords to vote against the Home Secretary being given the power to force professionals—against all existing legal obligations, implicit duties of confidence and their own professional judgment—to pass confidential information to the police, even when they believe this would be counterproductive. Leaving out Clause 17 would empower the people in the best position to make

those judgments—the professionals on the ground—rather than allowing central diktats from those in the Home Office who have little or no understanding of local circumstances or the individuals involved.

We support legislation that removes barriers to allow professionals working in the field of serious violence to share information with each other, including the police sharing their information. We even support a statutory reminder that authorities, including the police, have a duty to work together to reduce serious violence. What we cannot support is the Home Secretary forcing professionals operating in this scenario to share information that they, knowing the individuals and the local circumstances, believe would be counterproductive to reducing or preventing serious violence.

The Government are keen always to point to previous legislative precedence. When we asked judicial commissioners to give prior approval in cases where informants are being authorised by the police to commit criminal offences and are made exempt from prosecution, we were told that this was being done by the police handlers of those informants, who best knew the individuals and the scenarios in which they were to be deployed. The Government argued that local professionals on the ground should not be second-guessed by judicial commissioners. Here we are, with operational partners being second-guessed by the Home Secretary. Not only is this unacceptable but it is hypocritical for the Government to apply the principle in one situation—that professionals on the ground know best—and then reject it in another, and for the Government to argue that patients must not lose trust in their doctors but that those working to turn offenders away from serious violence can lose the trust of those they work with. I intend to seek the opinion of the House to leave out Clause 17.

Baroness Fox of Buckley (Non-Afl): My Lords, I am not particularly keen on GDPR legislation as it is, so I do not want to use it to support this group of amendments. I have also been happy to consider extraordinary measures to tackle things such as knife crime and gangs, because I do not want to pretend that this is a new problem. I live in Wood Green and I have seen someone stabbed. There is a horrible atmosphere in which you fear for young people's lives. Instead, I want to raise my fear that this could have unintended consequences. It is a question of trust. The young people who we would all like to prevent from being involved in serious violence need to turn to someone and build up relationships with people, if they are to get out of situations where they could be involved in violence.

I will give a couple of examples from youth workers who I have spoken to. A young woman who is pregnant wants to extricate herself from the gang culture, but she worries that, if she talks to people such as youth workers, she will be accused of snitching on the father of her unborn child. That might lead them to the police's arms, and so on. You can understand the situation. The youth worker reassures them that this will not occur but, actually, you cannot reassure them if the law changes as described. Then there is the young man who considers getting or tries to get himself out of a situation in which he is involved in gangs, but he is paranoid about the police. It is understandable that certain groups would think that any approach to anyone in authority would lead them into the police's clutches. Actually, any attempt by a youth worker to reassure them that they should not be paranoid would be incorrect in this instance—they were right to be paranoid, because they are potentially putting themselves in the police's clutches.

I ask the Minister how we can avoid the unintended consequences of this. I know that those individual youth workers will not necessarily be affected, but they work for institutions that have to make data available. Those anecdotes will become data points and important information can therefore be shared when it should not be. I note that I have told those stories anonymously and that I was given that information without any personal data being passed on. If you want to develop new strategies to tackle serious violence, it can be done without handing names, addresses and personal details to the police.

Lord Rosser (Lab): My Lords, I will endeavour to be brief. This group of amendments includes government concessions to include extra protections on doctor-patient confidentiality and healthcare data. They provide that the powers under the serious violence reduction duty do not authorise the disclosure of patient or personal information by a health or social care authority. We support the amendments in the name of the noble Baroness, Lady Meacher, which, among other things, leave out the uncertain language in brackets in the Bill.

To be a bit clearer about it—although the noble Baroness, Lady Meacher, explained it extremely well, as one would expect—the serious violence reduction duty requires data sharing between bodies, and the Bill currently provides that data cannot be shared if it would breach data protection laws. It qualifies that with:

"(but in determining whether a disclosure would do so, any power conferred by the regulations is to be taken into account)".

An amendment from the noble Baroness, Lady Meacher, and others would delete the provision in brackets, so data protection law would apply as normal, as it does to medical professionals. A number of noble Lords have referred to other people or organisations who have contact and involvement with that same degree of confidentiality, and professional judgments on disclosure should apply.

The noble Baroness, Lady Meacher, referred to a meeting she had with the Minister and a letter she only very recently received. I assume that is the one dated 7 December. I appreciate the letter and thank the Minister for it but, reading the paragraph that relates to the bit in brackets that the amendment from the noble Baroness, Lady Meacher, seeks to delete, I struggle to understand the argument for having the part in brackets. Why is it necessary?

Why can we not simply leave it, with statements in other parts of the letter that make it clear that data can be shared, where it is lawful to do so, only under the data protection legislation? One would have thought that is surely all we needed to say—not to have something in brackets which I do not fully understand the need

[Lord Rosser]
for, despite the letter from the Minister. I sense from what the noble Baroness, Lady Meacher, is saying that she too struggles to understand why we need the bit in brackets at all. I have no doubt that the Minister will comment on that in her response.

Having said that, we welcome the concessions made by the Government on medical data and doctor-patient confidentiality. They show that the Government have accepted, up to a point, that the data-sharing powers in this chapter needed qualification. Data sharing, properly and intelligently done, with safeguards, can be absolutely key to tackling serious violence, to prevent silo working and some of the failures we have witnessed too many times. We have some concerns over the proposal to require all data shared under the duty to be anonymised, as there may be rare but crucial cases where information needs to be more specific to protect the vulnerable and pursue the criminal.

I come back to this point: in welcoming the concessions that have been made, we support what the noble Baroness, Lady Meacher, is seeking to achieve, but we find the language in brackets—to which reference has been made—which appears to qualify the application of data protection law, to be unclear, and we really do not see why those words need to be there at all.

The Minister of State, Home Office (Baroness Williams of Trafford) (Con): My Lords, I thank all noble Lords who have spoken to this group of amendments, which concern the data-sharing provisions in Chapter 1 of Part 2 of the Bill. I thank the noble Baroness, Lady Meacher, for the time she has given me today and the discussion we have managed to have. I actually think we sneakily agree with each other—but not for the same reasons. Before responding to her amendments and those of the noble Lord, Lord Paddick, I will deal with the government amendments in this group, which, if I may take the mood of the House this evening, appear to have attracted broad support.

Information sharing between relevant agencies is essential to the effectiveness of the serious violence duty. It is very important to note that it can be shared only in compliance with data protection legislation. Nothing in this Bill either waters down that legislation or breaches it. The duty will permit authorities to share data, intelligence and knowledge to generate an evidence-based analysis of the problems in their local areas. In combining relevant datasets, specified authorities, local policing bodies and educational, prison and youth custody authorities within an area will be able to create a shared evidence base on which they can develop an effective and targeted strategic response with bespoke local solutions. We can see this in other areas where local bodies work together.

Each of the authorities specified in the legislation has a crucial role to play, and it is vital that authorities are able to share their data to determine what is causing serious violence in the local areas. For example, information sharing can contribute to local efforts by allowing authorities to identify patterns and trends, geographical hotspots and the most vulnerable victims, much in the way that the noble Baroness, Lady Fox, outlined.

9.15 pm

That said, I have listened carefully to the issues raised in Committee, in particular on the question of whether it is appropriate to allow any obligation of confidence owed by the person making a disclosure, or any other restriction on disclosure, to be set aside in the case of sensitive and confidential personal information. In bringing forward amendments to address these concerns, we absolutely need to balance the protection of sensitive personal information with the need to ensure that the new duty can deliver a sea-change in how agencies work together to prevent and reduce serious violence. I have listened to the particular concerns in respect of patient information, which is why I have tabled these amendments.

The government amendments will provide that personal data cannot be disclosed by a health or social care authority—that is, a clinical commissioning group in England or a local health board in Wales—under Clauses 15 or 16 or regulations made under Clause 9. In addition, personal information which is patient information cannot be disclosed by any authority under the powers conferred by the duty. This will further limit the disclosure of information under these new powers, in particular confidential patient information held by any authority under the duty and personal data held by health or social care authorities. It is necessary to take both of these steps to exclude patient data explicitly because health and other authorities under the duty may hold this information. For example, local authorities might hold, and will hold, social care patient information. As a result, excluding patient information will mean that no authority can share that information under the provisions in this Bill and will instead need to rely on existing legal gateways should they need to do so.

In order to support the approach of the Secretary of State for Health and Social Care to streamlining the number of data collections currently undertaken and reducing the burden on front-line agencies and bodies responding to information requests from local policing bodies—that is, PCCs and equivalents—made under Clause 16, we are limiting these to information already held by an authority to whom the request is made.

Turning to the amendments in the name of the noble Baroness, Lady Meacher, let me respond first to Amendments 11, 22 and 30, which relate to the provisions in Clauses 9, 15 and 16 which provide that, in determining whether a disclosure would contravene the data protection legislation, the power conferred by the relevant section of the Act is to be taken into account. The explanation of this is a bit complex and, before I set it out, it may assist the House if I reiterate the intention behind the clauses.

Clause 9 supports collaborative working, including by conferring a power on the Secretary of State to make regulations which authorise the disclosure of information between authorities subject to the serious violence duty and other prescribed persons in a prescribed area for the purposes of preventing and reducing serious violence. This might include organisations within the public, private or voluntary sectors, as well as regional or national bodies. This would be a permissive

gateway, so would permit, but not mandate, the sharing of information, and any disclosures must only be made in compliance with data protection legislation and cannot be made if certain prohibitions on disclosure set out in the Investigatory Powers Act 2016 apply.

To give an example, a voluntary organisation prescribed under the regulations could share management information about the characteristics of its clients and beneficiaries which could support the development of a local needs assessment. I should stress, however, that such voluntary organisations would not be required to provide personal information on their clients by regulations made under Clause 9.

Clause 15 will create a new information-sharing gateway for specified authorities, local police bodies and education, prison and youth custody authorities to disclose information to each other for the purposes of their functions under the duty. Again, this clause will permit, but not mandate, authorities to disclose information to each other.

Baroness Meacher (CB): My understanding is that the police are able to require information to be given and Clause 17 gives the Secretary of State the power to reinforce that. As the Minister suggested this morning, the matter would then have to be determined in the courts. This is really the nub of it. We want professionals to feel able to undertake their work to prevent serious violence, with children and young people who really are pretty problematic, without feeling that, in the end, it will go to court to decide whether they are allowed to exercise their professional judgment.

Baroness Williams of Trafford (Con): If the noble Baroness will be patient, I will get on to Clauses 16 and 17 in just a second.

Going back to Clause 15, this will permit, but not mandate, authorities to disclose information to each other. It simply ensures that there is a legislative basis in place to enable information to be shared between all authorities exercising functions under Chapter 1 of Part 2 of the Bill. The clause also ensures that any disclosures must only be made in compliance with data protection legislation and cannot be made if certain prohibitions on disclosure set out in the Investigatory Powers Act 2016 apply.

Clause 16 provides a power for a local policing body—a PCC or equivalent—to request information from a specified authority, educational authority, prison or youth custody authority for the purposes of enabling or assisting the local policing body to exercise its role to assist duty holders and monitor its functions to prevent and reduce serious violence. While Clause 16 places a statutory requirement on the specified authority, education authority, prison or youth custody authority to comply with such a request, a disclosure is not required if it would contravene data protection legislation or prohibitions in specified parts of the IPA 2016. The provision does not place any mandatory requirements directly on individual professionals to disclose information they hold under the duty, be that confidential information or otherwise.

There are also a number of safeguards in relation to the information that can be required. As proposed by government Amendment 20, local policing bodies must request only information already held by that authority. Requests must be related to the organisation or function to whom the request is made, except when functions are contracted out. Additionally, the information supplied under Clause 16 must be used by only the local policing body that receives it to enable or assist that body to assist the relevant authorities or monitor the activity it undertakes under the duty. The information received is not therefore to be used or disclosed onwards to any other bodies for other purposes, such as law enforcement.

It is against that backdrop that we need to consider the provisions in each of Clauses 9, 15 and 16 which Amendments 11, 22 and 30 seek to strike out. These provisions state that, in determining whether a disclosure would contravene the data protection legislation,

"the power conferred by this section is to be taken into account".

This allows the power or duty to disclose to be taken into account when determining the impact of the data protection legislation. This is to preserve the effect of the data protection legislation, dealing with the logical difficulties that can arise where an information-sharing gateway, such as that proposed by these provisions, prevents disclosure in breach of the data protection legislation, but the data protection legislation allows a disclosure which is required or permitted by the enactment. This is to ensure that these provisions can be taken into account when authorities are determining the legal basis for processing data under Article 6 of the UK GDPR.

This Bill is by no means unique in including this drafting. The provisions have been used for a number of other information-sharing clauses, including most recently the Environment Act 2021 and the Forensic Science Regulator Act 2021. I know that I am not allowed props in your Lordships' House, but if I hold up the list to myself, there are a huge number of Bills to which this pertains. This is a standard provision. I also reiterate that both Clause 15 and regulations made under Clause 9 provide for permissive gateways, meaning that they do not impose any obligation to share information. That is a crucial point.

On Amendment 25, I totally agree that any decision to disclose an individual's personal data should not be taken lightly. The rationale for not excluding all personal data sharing under the duty is clear. Private and confidential health data has a unique status and needs special protection or trust between patients and doctors. That could be undermined, with individuals actually going as far as to avoid treatment for fear of their data being shared. However, in order for the duty to be effective, we really must still support sharing of case-specific information on individuals at risk to both safeguard them and support vital interventions; I know that the noble Baroness, Lady Meacher, agrees with that point. Decisions about whether disclosures of personal data can lawfully be made under these provisions would always need to be made on a case-by-case basis, and always in line with data protection legislation.

As I said in previous debates, we are not seeking to replace existing data-sharing agreements or protocols, including those under the Crime and Disorder Act 1998. All authorities subject to the duty should have clear processes and principles in place for sharing information and data. Any and all exchanges of data and information

[Baroness Williams of Trafford]
under Clauses 15 and 16 or regulations made under Clause 9 must not contravene existing data protection legislation or provisions of the IPA 2016.

I turn to the amendments tabled by the noble Lord, Lord Paddick. Amendment 18 seeks to ensure that relevant authorities are obliged to comply with the serious violence duty only to the extent that it does not conflict with its other statutory duties. We do not support this amendment, as it is essential that all relevant authorities are legally required to collaborate with the specified authorities or with other education, prison or youth custody authorities in their work to prevent and reduce serious violence when requested to do so, and to carry out any actions placed on them in the strategy. There are already sufficient safeguards in place, including considering whether the request is deemed to be disproportionate to the local serious violence threat level, whether it would be incompatible with an existing statutory duty or, indeed, whether it would have an adverse effect on the exercise of the authority's functions, or would mean that the authority incurred unreasonable cost. In determining whether any of those conditions apply, the cumulative effect of complying with duties under Clause 14 must be taken into account.

We think that this approach strikes the right balance in ensuring that institutions which are affected by serious violence, or may have a valuable contribution to make to local partnership efforts, will be drawn into the work of the local partnership without placing unnecessary burdens on those which may not. This approach is also consistent with the structures and processes in place for existing safeguarding legislation and would allow for an effective and targeted approach within both the education and prison sectors.

Amendments 24, 32 and 33 require that any information disclosed under Clauses 15 or 16 or under regulations made under Clause 9 must comply with any duty of confidence owed by the person making the disclosure, where disclosure would amount to a breach of that duty, the Human Rights Act 1998, the Equality Act 2010, the data protection legislation, the Investigatory Powers Act 2016, and any other restriction on the disclosure of information, however imposed. In addition, Amendment 33 also specifies that no regulations may be published under Clause 9(2) prior to the Secretary of State publishing an equality impact assessment, a data protection impact assessment and a description of any guidance or codes of practice.

9.30 pm

We think that the amendments are not needed, as public authorities are already required to act in compatibility with ECHR convention rights by virtue of Section 6 of the Human Rights Act 1998 and, similarly, the relevant duties in the Equality Act 2010 such as the public sector equality duty already apply. Clauses 9, 15 and 16 also already ensure that data can be disclosed only in compliance with data protection legislation, which requires a case-by-case consideration of the necessity and proportionality of disclosure, and where disclosure is not prohibited by certain provisions in the IPA. Obligations of confidence and other restrictions on disclosure are not breached—

Lord Falconer of Thoroton (Lab): Is the Minister saying—I take Clause 9(5)(a) as an example—that, when considering necessity and proportionality under the data protection legislation, the existence of this power is not relevant because the data protection legislation will determine whether it is necessary and proportionate, and the only significance of the words in brackets is to make it clear that this opens a new gateway?

Baroness Williams of Trafford (Con): Can the noble and learned Lord elucidate?

Lord Falconer of Thoroton (Lab): Under the data protection legislation, whether or not to disclose the information depends in part on its necessity and proportionality, which is a balancing act. I think the noble Baroness is saying that the words in brackets are there—I am taking Clause 9(5)(a) as an example—only to make it clear that we are opening a new gateway here. They are not there to say, "In considering necessity and proportionality, have regard to the fact that this new power is given". Is that what the noble Baroness is saying about how the words in brackets operate? If it is too late at night and I am not clear enough, she can by all means write to me, but it is quite important.

Baroness Williams of Trafford (Con): The words provide that the processing is lawful under data protection legislation.

Lord Falconer of Thoroton (Lab): Is that separate from the words in brackets?

Baroness Williams of Trafford (Con): My Lords, as I understand it, they must be read with Article 6 of the GDPR, so it is a read-across. Yes, I am tired—my brain is not working very fast today.

Clauses 9, 15 and 16 also already ensure that data can be disclosed only in compliance with the data protection legislation; I mentioned that that requires a case-by-case consideration of the necessity and proportionality of a disclosure.

Obligations of confidence and other restrictions on disclosure are not breached by a disclosure under Clauses 15 or 16, or regulations made under Clause 9, but patient information and personal information held by a health or social care authority should not be shared in line with our proposed amendments, as it is vital that authorities are able to share their data when necessary to determine what is causing serious violence in local areas. Our draft statutory guidance provides some additional steers on this, and the guidance will be subject to formal consultation following Royal Assent and can be revised if it needs further clarification.

I turn to Clause 17, and first I shall answer a point made by the noble Baroness, Lady Brinton. A direction under Clause 17 cannot be made to require information requested under Clause 16 to be provided if the information is patient information or if the health or social care authority is requested to provide personal information. I hope that she finds that clarification helpful.

Amendment 35 strikes out Clause 17, which confers a power on the Secretary of State to direct a specified authority, educational, prison or youth custody authority,

where it has failed to discharge its duty imposed under the Bill. I assure the House that we expect these powers to be seldom used and utilised only when all other means of securing compliance have been exhausted. However, in order for this duty to be effective, there needs to be a system in place to ensure that specified authorities comply with the legal requirements that we are proposing to help prevent and reduce serious violence.

I hope, in the light of my explanation, that the noble Baroness, Lady Meacher, and the noble Lord, Lord Paddick, will be content not to press their amendments and support the government amendments.

Baroness Meacher (CB): My Lords, first, I thank the right reverend Prelate the Bishop of Manchester and the noble Lord, Lord Paddick, very much for their support for these amendments and their excellent contributions, and I thank all other noble Lords who have contributed today—in particular the noble Lord, Lord Rosser, who has been very helpful behind the scenes, despite a slight issue this evening, as we know.

I thank the Minister for her reply. Her remarks must have left noble Lords completely confused because, of course, if these clauses really were benign, we would not have Amnesty International, Liberty and about a dozen other organisations desperate for these amendments to pass this evening. The fact is that they are not benign, and I congratulate the Minister on the brilliant wording that has somehow left me bemused, along I am sure with everybody else in this Chamber.

I regard the issue of the ability of professionals to exercise their professional judgment in deciding whether to pass information to the police, which could jeopardise the very vulnerable young people they are working with, as a very important issue of principle. It is for that reason that I wish to test the opinion of the House—albeit I know our numbers are severely limited at this very late hour—and call a vote.

9.38 pm

Division on Amendment 11

Contents 85; Not-Contents 103.

Amendment 11 disagreed.

Division No. 5

CONTENTS

Addington, L.
Alderdice, L.
Bakewell of Hardington Mandeville, B.
Barker, B.
Beith, L.
Bennett of Manor Castle, B.
Blackstone, B.
Blake of Leeds, B.
Blunkett, L.
Brinton, B.
Bruce of Bennachie, L.
Burnett, L.
Campbell-Savours, L.
Chakrabarti, B.
Clement-Jones, L.
Coaker, L.
Corston, B.
Dholakia, L.
D'Souza, B.
Falconer of Thoroton, L.
Falkner of Margravine, B.
Featherstone, B.
Ford, B.
Foster of Bath, L.
Fox of Buckley, B.
Fox, L.
Garden of Frognal, B.
Grantchester, L.
Grender, B.
Grey-Thompson, B.
Hamwee, B.
Harris of Richmond, B.
Hayman of Ullock, B.
Howarth of Newport, L.
Humphreys, B.
Hussain, L.
Hussein-Ece, B.
Jolly, B.
Jones of Cheltenham, L.
Kennedy of Cradley, B.
Kennedy of Southwark, L.
Kennedy of The Shaws, B.
Kramer, B.
Manchester, Bp.
Masham of Ilton, B.
McNicol of West Kilbride, L.
Meacher, B.
Newby, L.
Northover, B.
Oates, L.
O'Loan, B.
Paddick, L.
Parminter, B.
Pinnock, B.
Ponsonby of Shulbrede, L.
Prashar, B.
Purvis of Tweed, L.
Ramsay of Cartvale, B.
Ramsbotham, L.
Randerson, B.
Rennard, L.
Roberts of Llandudno, L.
Rosser, L.
Russell of Liverpool, L.
Scriven, L.
Sharkey, L.
Sheehan, B.
Shipley, L.
Smith of Basildon, B.
Smith of Newnham, B.
Stoneham of Droxford, L.
Storey, L.
Strasburger, L.
Stunell, L.
Suttie, B.
Teverson, L.
Thomas of Cwmgiedd, L.
Thomas of Winchester, B.
Thornhill, B.
Thornton, B.
Tope, L.
Tyler of Enfield, B.
Wallace of Saltaire, L.
Wigley, L.
Young of Norwood Green, L.

NOT CONTENTS

Agnew of Oulton, L.
Ahmad of Wimbledon, L.
Altrincham, L.
Anelay of St Johns, B.
Ashton of Hyde, L.
Attlee, E.
Barran, B.
Bellingham, L.
Benyon, L.
Bertin, B.
Blackwood of North Oxford, B.
Blencathra, L.
Bloomfield of Hinton Waldrist, B.
Borwick, L.
Brady, B.
Brownlow of Shurlock Row, L.
Caine, L.
Caithness, E.
Callanan, L.
Carlile of Berriew, L.
Chisholm of Owlpen, B.
Colgrain, L.
Courtown, E.
Cruddas, L.
Davidson of Lundin Links, B.
Davies of Gower, L.
Deighton, L.
Evans of Bowes Park, B.
Fairfax of Cameron, L.
Fleet, B.
Fookes, B.
Foster of Oxton, B.
Fraser of Craigmaddie, B.
Frost, L.
Gadhia, L.
Godson, L.
Goldie, B.
Greenhalgh, L.
Griffiths of Fforestfach, L.
Grimstone of Boscobel, L.
Hailsham, V.
Hamilton of Epsom, L.
Harding of Winscombe, B.
Harlech, L.
Haselhurst, L.
Henley, L.
Herbert of South Downs, L.
Holmes of Richmond, L.
Howe, E.
Hunt of Wirral, L.
Kakkar, L.
Kamall, L.
Kirkhope of Harrogate, L.
Lancaster of Kimbolton, L.
Leigh of Hurley, L.
Lexden, L.
Lingfield, L.
Livingston of Parkhead, L.
Manzoor, B.
McInnes of Kilwinning, L.
McLoughlin, L.
Montrose, D.
Morgan of Cotes, B.
Morris of Bolton, B.
Moylan, L.
Naseby, L.
Neville-Jones, B.
Neville-Rolfe, B.
Nicholson of Winterbourne, B.
Noakes, B.
Parkinson of Whitley Bay, L.
Pidding, B.
Polak, L.
Popat, L.
Price, L.
Randall of Uxbridge, L.
Reay, L.
Ridley, V.
Robathan, L.
Sanderson of Welton, B.
Sandhurst, L.
Sassoon, L.
Sater, B.
Scott of Bybrook, B.
Seccombe, B.
Selkirk of Douglas, L.
Sharpe of Epsom, L.
Sheikh, L.
Sherbourne of Didsbury, L.
Shinkwin, L.
Shrewsbury, E.
Smith of Hindhead, L.

Stewart of Dirleton, L.
Stroud, B.
Suri, L.
Trenchard, V.
True, L.
Vere of Norbiton, B.
Williams of Trafford, B.
Wolfson of Tredegar, L.
Wyld, B.
Young of Cookham, L.
Younger of Leckie, V.

9.52 pm

Amendments 12 and 13

Moved by ***Baroness Williams of Trafford***

12: Clause 9, page 12, line 2, at end insert—

"(5A) Regulations under subsection (2) must not authorise—

(a) the disclosure of patient information, or

(b) the disclosure of personal information by a specified authority which is a health or social care authority."

Member's explanatory statement

This amendment and the amendment in the name of Baroness Williams of Trafford at page 12, line 11 require regulations under Clause 9(2) to provide that they do not authorise the disclosure of patient information or the disclosure of personal information by a health or social care authority.

13: Clause 9, page 12, line 11, at end insert—

""health or social care authority" means a specified authority which is listed in the first column of the table headed "Health and social care" in Schedule 1;

"patient information" means personal information (however recorded) which relates to—

(a) the physical or mental health or condition of an individual,

(b) the diagnosis of an individual's condition, or

(c) an individual's care or treatment,

or is (to any extent) derived directly or indirectly from information relating to any of those matters;

"personal information" means information which is in a form that identifies any individual or enables any individual to be identified (either by itself or in combination with other information)."

Member's explanatory statement

See the explanatory statement for the amendment in the name of Baroness Williams of Trafford at page 12, line 2.

Amendments 12 and 13 agreed.

Amendment 14

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

14: After Clause 9, insert the following new Clause—

"Serious Violence and the Housing Act 1996

The Secretary of State must, before the end of the period of 3 months beginning with the day on which this Act is passed, issue a code of practice under section 214A of the Housing Act 1996 on preventing serious violence to provide—

(a) that the application of section 177 of the Housing Act 1996 is to be applied to those at risk of serious violence so as to ensure that it is not deemed reasonable for a person to continue to occupy accommodation if the provision of alternative accommodation would prevent or reduce the risk of serious violence against that person;

(b) for the Homelessness Code of Guidance for Local Authorities to be updated to include a new chapter on the duties of local authorities under sections 7(3A) and 8(3A) of this Act, with particular reference to preventing and reducing serious violence and safeguarding young people at risk of serious violence;

(c) that the police shall be responsible for timely collaboration with housing providers on the reduction of the risk of serious violence to individuals where the exercise of housing duties may reduce or prevent the risk of serious violence; and

(d) guidance on the disclosure of information in accordance with regulations under section 9(2) of this Act by and to specified authorities which are housing authorities to prevent and reduce serious violence in a prescribed area, with particular reference to assisting the housing authority with the prevention and reduction of serious violence in the exercise of its duties under Part 7 of the Housing Act 1996."

Lord Young of Cookham (Con): My Lords, I beg to move Amendment 14 in my name and that of the noble Baroness, Lady Blake of Leeds. This adds a new clause to the Bill after Clause 9—the clause dealing with the power to authorise collaboration to prevent and reduce serious violence. It is the same as Amendment 50, which we debated in Committee on 25 October. It links that objective of reducing serious violence specifically to the area of housing by giving priority to those who need to be rehoused to protect them, for example, from gang violence. Homelessness massively increases a young person's risk of exploitation and abuse, and a safe and stable home is a key element in preventing and reducing youth violence.

The Government's *Serious Violence Strategy* in 2018 identified homelessness as a risk factor in being a victim or perpetrator of violent crime. This has been confirmed by research by Crisis and Shelter. The amendment builds on the protection in the Domestic Abuse Act for victims of violence in the home, extending it to victims of violence outside the home that is every bit as dangerous. Whatever the theoretical protection offered to them by existing legislation and guidance may be, evidence on the ground shows these young people are not getting priority—a fact confirmed by the Child Safeguarding Practice Review Panel. The amendment does not ask for fresh primary legislation but requires current codes of practice and guidance to be updated and refocused, and for the police to collaborate and to ensure that relevant data is shared between authorities where people are at risk.

The *Companion* says:

"Arguments fully deployed … in Committee of the whole House … should not be repeated at length on report".

I will therefore refer very briefly to what I said: that we are seeking to ensure that what the Government say is happening, and what should be happening, is actually happening on the ground. I also refer to what noble Baroness, Lady Blake, said when she gave specific examples with fatal consequences of a failure to rehouse a child out of area, and about how local authorities currently view their responsibilities in this area. The noble Baroness will deal with proposed new subsections (c) and (d) in the amendment.

The amendment was supported from the Cross Benches by the noble Lord, Lord Carlile, by the Liberal Democrat Benches and by a former police commissioner on the Labour Benches. In her sympathetic response to that debate, my noble friend the Minister said:

"We will continue to work with the relevant sectors to ensure that the statutory guidance is clear on this point"—

the priority need for those at risk of violence—

"ahead of a public consultation following Royal Assent and prior to the serious violence duty provisions coming into effect"—[*Official Report*, 25/10/21; col. 572.]

I took comfort from that.

But the amendment goes a bit further than that and refers to the code of practice and guidance under the Housing Act 1996. On that, my noble friend said:

"We think that the current legislative framework and accompanying statutory homelessness code of guidance, combined with the statutory guidance on social housing allocations, strikes the right balance as it considers the vulnerability of the applicant on a case-by-case basis and is the … appropriate means of determining priority for accommodation secured by the local authority."

My noble friend also referred to the code of practice covering Section 177 of the Housing Act, saying:

"I say to my noble friend at this point that the statutory homelessness code of guidance already provides such guidance for housing authorities when a person at risk of violence or the threat of violence approaches a local authority in housing need. The statutory guidance on social housing allocations also makes it clear that local housing authorities should consider giving preference to such persons."—[*Official Report*, 25/10/21; cols. 574-75.]

But the view of the Committee was that this did not go far enough to deal with the often tragic cases that we referred to.

At 5.50 pm yesterday, my noble friend wrote to me about the amendment, and I am grateful for a thoughtful and reasoned response. At the end, she says, "I hope that, in the light of these commitments, you will not consider it necessary to return to this issue on Report". But the amendment had already been listed for debate today yesterday morning, so she will understand that this hope was ambitious. One argument in her letter for resisting the amendment is a tribute to the ingenuity of the civil servant who drafted it, but it cut little ice with me. This was the suggestion that giving strengthened advice to social landlords about those suffering from serious violence, as proposed, and simply ensuring that what should happen does happen, would add £88 billion to the PSBR. I do not believe that the National Audit Office would reclassify housing association debt on the basis of my amendment.

My noble friend's letter says that the Government do not think that there is a case for changing the legislation, and I agree; the amendment is about the guidance. Here I welcome what she has said to me—namely, that "officials will work with those in Department for Levelling Up, Housing and Communities and representatives from the housing sector to strengthen the statutory guidance for the serious violence duty".

In conclusion, can I press my noble friend to give a little more detail of what she has in mind? Will this new guidance complement, and so update, the homelessness code of guidance and ensure that all agencies are adequately protecting those at risk from serious violence, as in the amendment, without requiring them to gather extensive evidence and demonstrate unique vulnerability, often without a clear idea of what it is that they are being asked to demonstrate? In other words, will it make the process more like that for those who are threatened by domestic abuse, as in proposed new paragraphs (a) and (b)? These ensure that all local authorities would be required to consider the needs of individuals at risk of homelessness due to serious violence. At the moment, this is covered by only one paragraph in the code of guidance, compared with a whole chapter for those at risk of domestic violence. I hope that she is now able to go a little further than she was able to go in her letter and flesh out what she has in mind.

10 pm

Baroness Blake of Leeds (Lab): My Lords, I rise to support the amendment in the name of the noble Lord, Lord Young, to which I am pleased to have added my name; and I would like to take this opportunity to commend him for continuing to pursue the important issues raised and for the clarity in his exposition of the points in front of us. Given the lateness of the hour and how much pressure we know we are under with this Bill, I hope I will not repeat too often some of the points that have been raised already.

In speaking to this amendment, I would like to emphasise that we are aiming to protect some of the most vulnerable children and young people in our communities. I would like to highlight the comments the noble Lord made, knowing of the increased risk to a young person of exploitation and abuse that comes from vulnerability around their housing situation. We know, in the communities where young people are targets of gangs in particular, just how difficult it is to protect them if they are not given the full support from all the agencies that could be involved to help them—and we know that a safe and stable home is a key element in preventing and reducing youth violence.

There surely cannot be anyone in this Chamber who does not want to see an end to the sickening violence that is cutting short the lives of so many young people in the most harrowing of circumstances. The question is, as always: what further steps can we take to prevent such tragedies occurring? For the sake of brevity, I do not want to go over again all the arguments I made at Second Reading, and I will focus my comments on subsections (c) and (d) of the amendment at the end.

I must admit that I find the argument that changes are not necessary because local authorities already have "discretion" to grant priority in the area of rehousing to be far wide of the mark. Unfortunately, we know that local authority interpretation varies and often leaves the onus on immensely vulnerable families to provide evidence at what can be the most traumatic time of their lives. When asked, three in four local authorities have no specific policy governing how they treat people applying for a priority need because of serious violence. In effect, a postcode lottery has been created.

We need to be completely focused on coming up with practical solutions to what I believe are solvable problems. This new clause would ensure that families with members at risk of gang violence are given the support they need, rather than placing it on a legislative footing. This amendment seeks to update the guidance issued by the Government to ensure that all agencies are adequately protecting those at risk of serious violence—in effect, ensuring that all agencies are working together to protect those at risk and that, in this particular case, housing providers are automatically included. There are areas in the country where that relationship exists, and the results speak for themselves.

[Baroness Blake of Leeds]

This new clause seeks to specify in law what the Government say is often happening anyway. Instead of people at risk of serious violence being forced to gather extensive evidence and demonstrate unique vulnerability—something not easily done when you are under threat or in a crisis—this would make the process automatic, as we rightly recognise should be the case for those threatened by domestic abuse.

Subsections (c) and (d) would ensure that housing providers are included in any collaboration around the reduction of serious violence. The Police, Crime, Sentencing and Courts Bill sets out the Government's ambition to reduce violent crime and address the root causes of serious violence across England and Wales, by making sure that public bodies work together to stop serious violence. However, at present the Bill does not include housing as a partner agency.

The new collaboration duties can play an important role. Given the role which housing often plays in serious violence, whether because of the location of specific threats or criminal activity around particular locations, it is vital that these providers are not locked out of discussions because they are not specified in legislation. By ensuring the guidance specifically includes them, the Government can guarantee that the all the expertise of this sector will not be ignored.

I conclude by repeating the comments of the noble Lord, Lord Young, on bringing in the costs situation. This is about young people's lives. I hope the Minister can provide further clarity and more progress, as the noble Lord, Lord Young, asked for.

Lord Paddick (LD): My Lords, we support this amendment. As I said in Committee, it is not just victims of domestic violence that need help and support from housing authorities to escape serious violence; young people groomed and exploited by criminal gangs, for example, also need and deserve to be urgently rehoused in certain circumstances. The police need to provide information to housing authorities where they believe that someone is being coerced into criminal activity, where they are being threatened with serious violence if they do not comply, and where the police believe that taking the person out of that scenario by rehousing them can reduce the risk of serious violence. Many of the young people involved in county lines drug dealing have been groomed into criminality and been the victims of child criminal exploitation. They and their families are often terrorised by those higher up the drug-dealing network. In this sort of scenario, the police need to work with social housing agencies to provide a route out of serious violence. We support the amendment.

Baroness Williams of Trafford (Con): My Lords, I thank my noble friend Lord Young of Cookham for setting out the case for his amendment. I also thank the noble Baroness, Lady Blake, and the noble Lord, Lord Paddick. I fully agree that local authorities can and do make a significant contribution to local efforts to prevent and reduce serious violence, and it is vitally important that all victims of serious violence who need to leave their home to escape violence are supported to access alternative safe and secure accommodation. As my noble friend has already outlined, the statutory homelessness code of guidance provides guidance on local authorities' duties under Part 7 of the Housing Act. The amendment seeks to place a requirement on the Secretary of State to issue a code of practice under Section 214A of the Housing Act 1996.

The implementation of the serious violence duty will bring additional guidance to which local authorities will have a statutory duty to have regard. The guidance accompanying the duty, to be issued under Clause 18 of the Bill, will reinforce and complement the existing guidance issued under housing and homelessness legislation. Taken together, I hope there will be sufficient guidance in place to ensure local authorities are clear on how the legislation applies in addressing the housing needs of victims of serious violence.

I hope my noble friend agrees—and I think he would—that to introduce another code of practice in addition to the existing homelessness code of guidance and the serious violence duty guidance would lead to unnecessary confusion and duplication. I hope to assure my noble friend this evening that the points his amendment is seeking to address are already covered, and are what we are planning to do in future.

Paragraph (a) of my noble friend's new clause would require the code of practice to provide guidance on the operation of Section 177 of the Housing Act 1996 in relation to people who are at risk of serious violence.

The Housing Act 1996, as amended by the Homelessness Reduction Act 2017, puts prevention at the heart of the local authorities' response to homelessness and places duties on local housing authorities to take reasonable steps to try to prevent and relieve a person's homelessness. When assessing if an applicant is homeless, local authorities should consider any evidence of violence and harassment. Section 177 already provides that someone is considered homeless if it would not be reasonable for them to continue to occupy the accommodation and it is probable that this would lead to violence against them, their family or their household.

Paragraph (b) of the new clause seeks to update the homelessness code of guidance to include a chapter on the duties of local authorities. We are committed to supporting victims of serious violence and know the important role that local authorities play in making sure that such victims get support when they are in housing need.

As noble Lords will know, we published a draft of the statutory guidance for the serious violence duty in May. The debates in both Houses have helped to identify areas which need further development prior to publishing a revised draft, which will be subject to a formal consultation following Royal Assent of the Bill. Officials will work closely with the Department for Levelling Up, Housing and Communities and representatives from the housing sector to strengthen the statutory guidance for the serious violence duty. This will point to the legislation and guidance that is already set out in the homelessness code of guidance and the allocation of accommodation guidance, and showcase examples of good practice in this area which local partners can draw on to raise awareness across public authorities of the legislation which protects this cohort.

I can also give a commitment this evening that we will expand the homelessness code of guidance to include a new chapter on supporting victims of serious violence, which I hope gives my noble friend the assurance he seeks in this regard.

Paragraphs (c) and (d) of the new clause concern the role of the police in timely collaboration with housing providers on reducing the risk of serious violence to individuals, and guidance on the disclosure of information. Of course, we must do all that we can to identify and provide support to the individuals most at risk of involvement in serious violence, including those who might be at risk of homelessness.

As noble Lords have stated, many housing authorities already work with the police and other key partners to reduce the risk of serious violence, including through the provision of alternative accommodation. Where this works well, it is clear that it is vital that services such as youth offending teams, educational authorities and national probation services work together locally to provide support for the household and victim of violence. Housing alone without support, I think noble Lords will agree, is not a sustainable option.

As part of the work to prevent and reduce serious violence, specified authorities in a local area will be required to work together to identify the kinds and causes of serious violence and, in doing so, to establish the groups of individuals who are most at risk in local areas.

The new serious violence duty will facilitate this and is intended to generate better partnership working locally to further protect this cohort. The draft guidance is clear that local authorities are responsible for the delivery of a range of vital services for people and businesses in a local area, including—but not limited to—children's and adult's social care, schools, housing and planning, youth services and community safety, so they will have an essential role to play in partnership arrangements. The inclusion of this detail in the guidance for the new duty, alongside the existing homelessness legislation and guidance, is the most effective way of supporting these victims of serious and gang-related violence to relocate and start afresh.

To support the collaboration, Clause 9 provides that regulations can also be made to authorise the disclosure of information, which we talked about earlier, between authorities and prescribed persons, which might be external bodies for this purpose, so long as it would not contravene existing data protection legislation or be prohibited under provisions of the IPA 2016. This of course would be a permissive gateway, permitting but not requiring the sharing of information.

I hope that, in the light of the assurances and commitment I have given in relation to the statutory guidance and the relevant existing legislation on this matter, my noble friend will be content to withdraw his amendment—and I apologise for the lateness of the arrival of the letter.

10.15 pm

Lord Young of Cookham (Con): My Lords, I thank, first, the co-sponsor of the amendment, the noble Baroness, Lady Blake of Leeds, for continuing the duet that we launched in Committee. I am grateful also to the noble Lord, Lord Paddick, for his continued support. I should also mention that I am grateful to Stella Creasy and her office for the briefing that she has been able to give us in connection with the amendment.

There was a lot in my noble friend's reply and I am very grateful for what she said. I will pick out just three things. She said that the additional guidance under this legislation will place a statutory obligation on local authorities, which will complement existing guidance. I set great store by what she said on that. She also said that the draft guidance that has already been published will be developed further and strengthened in the light of debates in both Houses. She also said, crucially, that there will be an extra chapter to the homelessness guide—again, something that I asked for.

In the words of "Oklahoma", I think she has gone about as far as she can go. Against the background of the assurances that she has been able to give, I beg leave to withdraw the amendment.

Amendment 14 withdrawn.

Consideration on Report adjourned.

House adjourned at 10.17 pm.

Grand Committee

Wednesday 8 December 2021

Arrangement of Business

Announcement

4.17 pm

The Deputy Chairman of Committees (Baroness Healy of Primrose Hill) (Lab): My Lords, Members are encouraged to leave some distance between themselves and others and to wear a face covering when not speaking. If there is a Division in the Chamber while we are sitting, the Committee will adjourn as soon as the Division Bells are rung and resume after 10 minutes.

House of Lords: Governance

Motion to Take Note

4.17 pm

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

That the Grand Committee takes note of the governance of the House of Lords.

The Senior Deputy Speaker (Lord Gardiner of Kimble): My Lords, looking round the Moses Room this afternoon, I see a galaxy of stars of Members—and not Members—who have a great history in this House. Therefore, while my notes say that I am very pleased to have this opportunity to open the debate, my expression should be rather stronger than that.

At the outset, I thought it would be helpful and useful to set out some of the details about this conundrum of the governance of the House—the beginning of an answer to the question that was asked several times during our debate on 25 October: who runs the House? I shall start with the officeholders in the House.

The Lord Speaker presides over proceedings in the Chamber, chairs the senior domestic committee—the House of Lords Commission—is the primary ambassador for the work of the House, has formal responsibility for the security of the Lords' part of the Parliamentary Estate and is one of the three "key holders" of Westminster Hall. The Leader of the House, in addition to her ministerial responsibilities, has a wider task of upholding the rights and interests of the House as a whole. This gives her a particular role in the governance of the House, in addition to her membership of the commission.

I recognise the roles of noble Lords who make up the usual channels: the Leaders and Chief Whips of the main party groups and the Convenor of the Cross Benches. They all play a crucial role in the governance of the House through their various memberships of the House's domestic committees and the arrangement of business. Finally, as Senior Deputy Speaker, I am deputy chair of the commission and chair of a number of the House's domestic committees, and I exercise general supervision and control over private Bills and hybrid instruments. I also speak on and answer any Oral and Written Questions concerning the administration of the House, the work of the House of Lords Commission and the work of the committees I chair.

Moving on to those domestic committees, in July 2016, the House agreed to the implementation of proposals that were developed through an extensive governance review undertaken by the Leader's Group on Governance, chaired by the noble Baroness, Lady Shephard of Northwold. This included the creation of a new senior committee, the House of Lords Commission, to provide high-level strategic and political direction for the House of Lords administration on behalf of the House and to monitor the performance of the administration. The commission engages on strategic matters such as restoration and renewal, the financial and business plans provided by the administration, security, allowances and the ongoing response to Covid-19. The commission is supported by three other committees: the Services Committee, the Finance Committee and the Audit Committee.

The Services Committee agrees day-to-day policy on Member-facing services, such as catering, digital, property and office services, and on the use of facilities. It provides advice to the commission on strategic policy decisions in relation to such services. For example, the Services Committee has been reviewing the House's fire evacuation policy, our health and well-being policies, and the new travel office contract. The Finance Committee considers expenditure on services provided from the estimate for the House of Lords, and reports to the commission about forecast outturn and estimate and financial plans submitted by the management board, and monitors the financial performance of the House administration. The Audit Committee considers internal and external audit reports and the management responses to such reports, and provides advice to the Clerk of the Parliaments. The chairs of each of these committees sit on the commission.

Taken together, 31 noble Lords serve on these committees: officeholders, the usual channels and Back-Bench Members. We work together across the committees with the best intent to enable the House to flourish. That is the structure the House agreed following the governance review recommendation for what might be termed Member-led corporate governance.

I now turn to the official-led administration, which supports our work as Members. The House administration is led by the Clerk of the Parliaments. By statute, the Clerk of the Parliaments is appointed by Her Majesty by letters patent. He is the chief executive of the House of Lords and the chief procedural adviser to the House. The Clerk of the Parliaments is also specified in statute as the accounting officer and the corporate officer for the House, and the statutory employer of House of Lords staff. He is responsible for all aspects of the services provided by the administration for Members, the public and other interested parties. In discharging his duties, he is supported by a wide range of staff; in particular by the management board, which he chairs. The management board takes strategic and corporate decisions for the House administration within the policy framework set by the commission. The Clerk of the Parliaments and the management board lead the House administration with the objective to support and strengthen the work of the House of Lords. In this, they are guided by four values: inclusivity, professionalism, respect and responsibility.

[Lord Gardiner of Kimble]

While this is, to some extent, an answer to the question of who runs the House of Lords, I readily recognise that it hides a wealth of detail, not least the constant interactions between committee members, officeholders and Members from all around the House. But, as I have found in coming back to the House, in a sense, since May, it is not simple, sometimes, to put one's finger on where decisions are to be made. It was, in part, in recognition of the complexity of our work, the importance of ensuring we meet the highest standards of good governance, and ensuring that the Member-led and official-led elements of our governance system worked in close partnership with one another for the benefit of the House, that the commission asked for an independent external management review to be carried out.

The report of the external management review, published earlier this year, made a broad range of recommendations. The majority focused on the internal management of the House administration. There are three recommendations that it would be particularly useful to cover here.

First, the report proposed that the commission be put on a statutory footing, with a separate legal entity to act as the employer of House staff. Essentially, this would remove from the Clerk of the Parliaments his current statutory responsibilities and place them with the commission. It would allow for clear lines of direction and delegation from the commission to the administration. It would be a radical and complex shift away from the current situation. The commission has treated this recommendation with caution; noble Lords may also have views on this matter.

Secondly, the EMR, as I will describe the review, recommended that the governance arrangements of the House, particularly the relationship between the commission and the Clerk of the Parliaments, be set out clearly in a governance statement to bring clarity to questions of who is accountable and responsible for what. The report of the noble Baroness, Lady Shephard, made similar recommendations. Work on putting this recommendation into effect is under way, and I anticipate the commission being able to make a statement in the spring.

Thirdly, the report recommended the appointment of a Chief Operating Officer. It is important not to underestimate the complexity, scope and range of services that are provided by the House of Lords administration. Much of it goes on behind the scenes, often in partnership with the House of Commons, and is visible to us only when something directly affects us. It is quite distinct from the procedural work that we see every day to support our proceedings.

The responsibility for overseeing and managing this work falls to the Clerk of the Parliaments as accounting officer and corporate officer of the House. With this in mind, the review highlighted a need for additional senior-level capacity in the administration's management structure specifically to enhance the administration's performance in relation to the work outside the Chamber and committees—broadly speaking, to support the Clerk of the Parliaments in his role as chief executive of the administration. A recruitment process for this post was undertaken earlier this year and an appointment made. Mr Andy Helliwell will join the administration on 3 January.

Lord Strathclyde (Con): I am sorry to interrupt the Minister; I hope that it is in order.

I have here a briefing from the House of Lords Library on the organisation of the House of Lords administration, which is of course excellent. Nowhere does it mention Members, who ought not so much to be represented but to whom the administration needs to be accountable. Secondly, the appointment of the new—what is he?

Noble Lords: Chief Operating Officer!

Lord Strathclyde: Yes, him. Would the Minister say that he feels that, in the past few years, the clerks have been unable to fulfil the function that this new person will do? I think that the clerks have been admirable in the way they have carried out their duties. I did not mean to interrupt, and of course I will speak to this later, but I wanted to make that point before the Minister got any further.

The Senior Deputy Speaker (Lord Gardiner of Kimble): It is fair to say that a considerable proportion of my speech opened with the Member-led governance of this House and its huge importance. My remarks relate to my understanding, which is about Member-led governance; I have then referred to the administration, which we rely on very closely.

All I can say is that we have identified that extra support is needed for the Clerk of the Parliaments. We have excellent people working for us, as I shall say with greater emphasis shortly, but the truth is that it is a very demanding job, as I outlined. The Clerk of the Parliaments' responsibilities are extremely great. Therefore, the endorsed view was that there should be extra support, outside the Chamber and committee work, to help the Clerk of the Parliaments with the very considerable responsibilities that we have placed in one person.

This has been a brisk gallop around the essential aspects of our governance structure. It would be remiss of me, as the noble Lord, Lord Strathclyde, said, not to highlight the excellent work of the administration and of Members, both individually and collectively, for the good of the House. The work of our committees, communications, outreach, digital, heritage and conservation, maintenance, catering, security and more is all supported and enabled by good governance.

While I may not be able to answer in detail the many points that will be made in today's consideration, or debate—whatever we wish to call it—I assure your Lordships that I shall listen carefully. If I am permitted to say so, I know that a number of other people are listening carefully, both here and outside the Moses Room. I very much look forward to hearing what noble Lords have to say. It is the case that my door is proverbially always open, as is that of the Clerk of the Parliaments. The Lord Speaker intends to hold a series of townhall meetings, at which I will be present

with the Clerk of the Parliaments, the chair of the Services Committee and those of other committees, as appropriate, to ensure that all noble Lords feel that their voice is heard.

We all accept that the effective, responsible and professional governance of our House is essential, as is noble Lords having confidence in it. To me, in my role, that is of huge importance and significance. The whole purpose of good governance is to support and strengthen the House in the delivery of its vital constitutional role. All of us with a position in the governance structures I have described take our roles very seriously, and at all times we seek to work as a team to discharge our responsibilities for the benefit of the House, its Members, its staff and, importantly, the public we all serve. I beg to move.

4.32 pm

Lord Haselhurst (Con): Noble Lords will forgive me if I feel somewhat nervous at being promoted so high in the batting order, particularly as something bad happened to the England cricket captain in that position earlier on.

The Library briefing, to which reference has been made and which came out a few days ago, points out that, during the past 30 years, there have been 10 reviews that have seen duties and responsibilities move around from one body to another. The latest, and perhaps most significant, development is one that has just been referred to: the imminent arrival of the Chief Operating Officer, charged specifically with

"overseeing major change initiatives and programmes."

Based largely on the five years that I spent as chair of the Administration Committee in the House of Commons—I understand that we are now allowed to refer to the House in that way, as opposed to "the other place"—I would, if I may, like to suggest one or two initiatives. The first, and obviously most important, is security. We are all too conscious of the threat of fire to people in the Palace. I am not sure that all of us, despite taking on some forms of training, would be up to it if an emergency arose. I once found myself in the Royal Gallery with a party from the House of Commons when there was a fire alarm. I had absolutely no idea how to make an escape from there with my guests because I had not been trained in all parts of the Palace. I suspect that that works the other way round as well.

Of course, there is the fact that our fire precautions are on the basis of getting people out of this building safely, whereas all the physical work that has been done for other reasons in the last few years has been to make it difficult for people to get in. If those physical barriers are there, they also work the other way round, which is something to which I do not think sufficient thought has yet been given. There is also the other outside threat that we are all too conscious of, which could intensify as more movement is created by Members of this House having to move across Parliament Square, from one part to another, once R&R takes place.

We are also entitled to point out that the Palace is part of a world heritage site that requires safeguarding. I would have no compunction in closing the square to traffic, however controversial that might be and however much it might put us in argument with Westminster City Council. Some say that it cannot be done, but a Transport Minister some years ago said that what you have to do is put the barriers up at 4 am and the traffic will find its way round them in the end.

My second point relates to visitors. I do not think we treat our visitors as well as we should. To criticise Westminster City Council again, we were not allowed to put a shelter on the pathway down to the Cromwell Green entrance to protect them from the vagaries of the weather. We can do better than that. Very early on when I became chair of the Administration Committee, I had a formal meeting with the then Lord Speaker, who said to me, "Alan, what on earth are we going to do about these tours?" We are taking people in at the point at which they should exit, taking them through the building and then turning them around, causing complete congestion in the process.

We might also look at the possibility of a Palace-wide approach to catering. Many other services have been brought together over the years, and it seems that this is one that has received insufficient attention. The purpose would be to encourage more of us to eat on the estate, and that would then require variety; although the food standards might be high, you do not want to eat the same meal or have the same selection on every occasion. That should be looked at, and I understand that the noble Lord, Lord Touhig, might not be entirely put off by that idea.

Finally, I offer this thought. As Members of this noble House, we need to be aware of the critics who circle us. They range from those who would prefer an elected Chamber to the one we have, to those wanting a unicameral Parliament. I would like the public to have a more constant reminder of the vast amount of serious scrutiny that is undertaken in this House. I suggest we explore the possibility and practicality of establishing a dedicated TV channel, whereby the business of this House can be projected more effectively.

I say all that, which is probably enough, without mentioning R&R, which I am sure might come up in the rest of our debate.

4.38 pm

Lord Davies of Brixton (Lab): My Lords, I share the previous speaker's nervousness, faced with, as we were told, the stars of this House; I feel that I am a minor asteroid, perhaps. I put my name down on the list because I wanted to listen and perhaps ask an occasional question. One thing I have learned is that, if you come to a debate, it is a good idea to put your name down, just in case. That will not prevent me making some points.

Obviously, I am a newcomer—I have been here just over a year. In some ways, perhaps that is an advantage, because I see the House in a different light. The governance of the House is certainly a mystery to me. One problem is that it lies between different words—governance, management, administration—without us being clear as to how the terms differ and what exactly each of them means.

However, I have had the advantage of serving on the Finance Committee for a year, which provides an overall insight into the work of the House; I hope that I have gained something from that. I have also read the

[Lord Davies of Brixton]
useful Library paper; it tells us interesting things and is also interesting for what it does not tell us—I will come to that in a minute. I would be particularly interested to hear whether noble Lords have views on where the Library paper has got it wrong.

I have three specific points to make. First, I am still puzzled by the role and functions of the Chief Operating Officer. I wonder whether there is any news on the appointment. It is notoriously difficult to insert a new post into an established structure because the existing postholders all have their interests and power relationships. Someone coming in, potentially from outside, will always be difficult. It is perhaps literally our own version of "Game of Thrones", since we have thrones—that is a little joke.

What I have never really understood—perhaps it has never been spelled out sufficiently—is why having this role is a clear criticism of how things were before. I am not aware of anywhere where those criticisms are clearly set out. It would be useful to know what they are. It is also worth noting that the Chief Operating Officer will have the title of "deputy". To me, that means a role that is equivalent to that of the chief. If someone is a deputy, they are not an assistant or another executive; they are someone who stands in for the chief. When you give someone that title, that is what you mean.

Secondly—and this point is missing from the Library briefing, so perhaps people could expand on it—there is hardly any reference to the usual channels. In truth, one suspects that much of the governance is undertaken through the usual channels, but those of us who are new or somewhat distant do not really get a look in. Decisions are taken but it is never entirely clear where they were taken and who took them.

Thirdly—I have plenty of time—we are told in the Library briefing that there are approximately 670 staff. They provide us with a significant reservoir of knowledge and experience but, judging from the Library briefing, they hardly exist. There is very little reference to the contribution that staff can make to the governance of the House, let alone any reference to the potential role that the trade unions that represent them could play. Perhaps the Senior Deputy Speaker could tell us a bit more about whether their absence from these discussions is an accurate reflection of their absence from any involvement in governance, or whether there is some hidden involvement.

There are two levels to the involvement of staff. In any organisation, managers and senior managers will be reluctant to distribute power to other levels within the organisation. But in a representative organisation where there are members being served, there is immense pressure on senior executives to be the sole channel of communication with the members; they will always want to be the sole means by which the staff express views to the members. I have experienced it in local government and in the trade union movement. I think that it is inevitable but, as Members here, does that serve us well? That is no criticism of the senior staff, but maybe there are ways of opening up channels of communication greater than just with the senior officials.

To conclude, I think that, generally, what we fail to achieve in the information that has been given to us is a distinction between the formal structure of administration and the shadow structure—how things are really run. The first remains a bit of a mystery but has become a bit clearer with these discussions; the second is still totally opaque.

4.46 pm

Lord Balfe (Con): My Lords, I have also been promoted somewhat up the batting order, as they say, but I will try to survive the first ball. The first thing that struck me about this debate is how one-sided it is. I believe that the noble Lord who has just spoken is the only Labour Party speaker we have; we do of course have my good friend, the noble Lord, Lord Desai, who is a refugee from the Labour Party. We have virtually no Lib Dems—I can see one here, but maybe there is another. I just wonder whether we do not start off from the disadvantage of being rather biased in what we have got.

I have been here somewhat longer than the noble Lord who just spoke—not a huge amount of time; eight years—and I can tell him that I am as mystified as he is about how the place works in its essential parts. What I do notice is a crushing lack of any level of democracy in any part of any structure in this House. We vote for absolutely nothing among our peers. I begin with a straightforward criticism: I believe that that is one reason why none of the party leaders is sitting with us this afternoon. They owe nothing to us. None of the people who are the usual channels is voted for by any of the people who are ruled by these usual channels. That is a major disadvantage in trying to run and modernise the House.

My second point is that we certainly have a complex decision-making structure. I despair at what the Chief Operating Officer is going to do. We have, and we need, clear levels of responsibility within Parliament; in inserting another person—and of course we have just engaged a HR person—we seem to be putting in staff as an alternative to looking at the structure that we are dealing with.

I give two examples. From a very early stage in this building, I noticed that, for all the talk about its unrepresentative nature and everybody being London based, one reason for this could well be that no one who lives outside London gets an overnight allowance for staying in a hotel. I know that there were problems in the past—10 or 12 years ago—but many organisations have devised systems that are foolproof; for example, look at our Treasury and the Civil Service scheme, or the scheme I used to use when I worked in local government. You can devise systems. To me, it is utterly wrong that people should be asked to come down from Scotland, or from a long way away, at a different level of remuneration than applies to those who live in London or who, like me, can commute backwards and forwards to Cambridge—at, of course, a daily cost to the House—which is probably 50% of what they would spend if they had an allowance.

The main point I make is that I have been chasing this round for years. There is no way in which an ordinary Member of this House can table a resolution

which is looked at anywhere. The most I have managed to achieve, having gone round the houses about three times, is being told "You'll get nowhere with this until the Leader of the House is willing to put it on the agenda. And she's not." The first thing we need is a way for Members of this House to have an influence on the way that it is run—an ability to put proposals forward, to have them debated and to know what is happening.

My second point is this: the way in which we treat the Members who are no longer here is an absolute disgrace. People retire, they leave, and there is one line in *Hansard*, if they are lucky: "We would like to thank the noble Lord for all his service". But there is no structure to keep them informed and there is no system of ever inviting them back once a year for a drink with the Speaker. Okay, they have certain dining rights, but there is no structure whereby we can know what happens to retired Members. It is completely left to chance. I notice that the noble Lord, Lord McKenzie of Luton, who was a friend of mine, died a few days ago. The Labour Whip told the Conservative Whip and it came out on our Whip, but there have been many instances where noble Lords have passed away and we have known nothing about it at all. If we have missed the day in the House, we probably have not even realised that much. I put it to the new Speaker that we should look at this. He offered to send his assistant to talk to me. This is not the way to treat Members of this House. We need a better structure going forward.

My third point is this: we need a way where an ordinary Member knows of someone or other in the administration who they can go to with virtually any problem that they have. I had 10 years in the European Parliament in a very obscure role called Chairman of the College of Quaestors. We were basically the complaints service, but people knew that they could come to us with any complaint and we would at least know where to go and where to push them. I used to manage it by walking around the building—it was called being on foot patrol, for those with a military background—and people would come up to me and give me their problems, and that is how we got round the freedom of information requests. I put it to noble Lords, in particular the noble Lord opposite, that we need a structure where Members of any grade can feel that there is someone or other who will be able to feed their concerns into the machine and come back to them with some sort of answer.

Those are a few thoughts. I hope they are of value and that I at least survived the first ball.

4.54 pm

Lord Howard of Rising (Con): My Lords, I remind your Lordships of two comments made in our recent debate on procedures. The noble Lord, Lord Rooker, said:

"I have been a Member of your Lordships' House for 20 years, but I have never found out who runs this place. I feel continually bounced. It is as though they have been to the Barnes Wallis bouncing school to get things through your Lordships' House."—[*Official Report*, 25/10/21; col. 526-27.]

The Noble Lord, Lord Kerr said:

"As a very young man, I worked in the Moscow embassy trying to find out what was going on in the Politburo of the Central Committee of the Soviet Union. It was difficult, but it is as hard to find out in advance what is going to happen in the Procedure and Privileges Committee of this House."—[*Official Report*, 25/10/21; col. 539.]

In spite of a noble attempt by the Senior Deputy Speaker to shed some light, I fear I am not sure if I am much wiser. By the way, I still think that a camel is a horse designed by committee.

The opaqueness referred to by those two distinguished Members of this House I have just mentioned did not matter so much when our self-governing House, its traditions and its way of doing things were respected. Recently, there has been a tendency to modernise for the sake of being modern, and to do so with little or no respect for the House and those symbols which not only underwrite the continuity of the House but in some cases are an important part of the way the House does things.

There is a strong case for modernisation where it is appropriate and where it makes an improvement. For example, an efficient IT service is a modernisation which is a great improvement to the good running of the House, with no disturbance to your Lordships or deterioration to the well-being of all concerned. Assuming it is well implemented, it is a huge addition for one and all.

I respectfully suggest that getting rid of wigs and court dress is the exact opposite. Court dress and wigs transform the clerk from another person we all know and see around the House to an officer of this House, with the corresponding authority and respect. To sneak in the present dress under the cover of Covid, and with no authority from the House, is unacceptable. If whoever took this decision believes that getting rid of the symbolic dress would enhance the reputation of the House by making it appear more modern, they display a woeful case of misplaced navel-gazing and a lack of contact with the real world. They do not seem to understand that there is a value in tradition which is understood and appreciated throughout the whole of the United Kingdom, even if it is not appreciated by the metropolitan elite. If the argument for dressing down is so convincing, let it be put to the House.

Publishing Select Committee reports on a Wednesday—if you are lucky—or a Thursday, when many have left the House, and looking for approval the following Monday is a disgrace. To push the things through the House without time for the matter concerned to be considered properly does not give the House a chance to take a thoughtful view.

In recent years, the job specification for Black Rod was altered and two jobs created where the one job had worked perfectly well for as long as anyone can remember. Is this a job creation scheme of the sort we read about in "Parkinson's Law"? The change to Black Rod's role meant that a Director of Facilities was thought to be needed. Delightful as the individual is, I have to say that things worked perfectly well before that appointment, and the food was both better and cheaper. I dare say that the Director of Facilities is not directly responsible for catering, but could somebody please take a lesson from the other place, where the food is half the price and twice as good?

[Lord Howard of Rising]

The place of your Lordships in this House is being consistently downgraded. I will not take up more of your Lordships' time by going through the many examples of this—we would be here for a very long time. What used to be there to support your Lordships has acquired a life of its own. Those whom the noble Lords, Lord Rooker and Lord Kerr, found so mysterious have become the all-important element of this House. Enhancing and enlarging their role seems to have become their prime purpose. Providing support for the work of your Lordships should be the raison d'être of all those employed in this House. If it is not, what are they here for? It is worth noting that it is a characteristic of an organisation in decline that it concentrates on increasing its top management unnecessarily.

4.59 pm

Baroness Harris of Richmond (LD) [V]: My Lords, suffice it to say that I am sure nobody wants me to go through the very great number of changes made to our governance since I first came into your Lordship's House, in 1999. The Senior Deputy Speaker has spoken of some of the more recent ones, of course. However, a reading of the really excellent briefing from our Library will give everyone the details they may need.

As the only virtual participant this afternoon, I really want to speak about my own experience, now that I am a virtual player. This has changed my perception of how we run ourselves. During the time—quite recently, really—when we were mostly participating through PeerHub and just a few Members were able to sit in the House, I was busily working away up in North Yorkshire, where I am at the moment, learning about Zoom and Teams, and doing my job as a Whip. This was very much harder remotely than being in the Chamber, where one could nip in and out and nudge colleagues to remind them when they should come in—or better, relay to them the messages from our office on whatever piece of business we were dealing with.

Many people thought that we were having a very easy time of it, sitting on our sofas, making cups of tea, et cetera. But the truth was that, as a Whip, one had to be alert to what was happening on the screen, at all times. I say "screen", when in fact I was working, as I am today, on at least two screens: my desktop computer and my laptop for business in the Chamber and Grand Committee, and my iPad for the emails that were constantly coming in. Then there was the chat function in Teams. This was the crucial piece of information-sharing between the chair, the clerks, the Whips, et cetera. I held it constantly, as I scrolled between my own colleagues, telling them of any changes to the business, keeping in touch with the app and constantly responding to messages. My husband took a photograph of me one day, juggling all this information, so that I would remember it when things got back to normal.

As it happens, it never will now for me. I have been admitted to the House assistance scheme, which allows those of us unable, because of disability, to participate as fully in House business as possible. The incredible Digital Service has made this possible, so I now go through the Parliamentary Broadcasting Unit when I want to participate. I put on record my huge thanks to it for the support and help it has given those few of us in this category. We simply could not have carried on without it.

In fact, we have all had to learn new skills since the beginning of the pandemic, and many people have worked extremely hard to ensure that we could all use these facilities when we needed to. So I ask the Senior Deputy Speaker: is all the infrastructure still in place in case we have to go back to some form of remote working? If not, how quickly might it be brought back into operation?

Another one of the many examples of how our work has changed is the programme instigated by our first Lord Speaker for Peers' outreach, which asked Peers to go into schools to talk about our work with students. I was on the first working party that helped pull this together, and I have visited many schools in my region, thoroughly enjoying a Friday off to talk to the young people. The Lord Speaker's office organised it all, and I very much looked forward to playing my part in educating them about what we do. That changed, and morphed into Learn with the Lords—an online communication with schools, which our excellent education unit runs. This has enabled many of us who participate in the programme to visit many more schools and, for me, a chance to go to parts of the country I would never have visited in the old days of the programme. In fact, on Monday, I am off to Exeter and, half an hour later, to Newcastle upon Tyne. This can be achieved only through the parliamentary communications unit, which I commend to your Lordships.

There are some glitches, of course, and after the debate we had the other day about how we should take things forward, I will watch with interest how Question Time in the House is dealt with; although it has to be better than it was the other week, when no less than three virtual speakers—I was one of them—came in one after the other, to the utter dismay of Members who were physically in the House and unable to ask their own questions before the time allowed was up. Now we are to wait until the eye of the Leader is caught and a signal sent from our Front Bench to indicate that one, or possibly two, of our virtual Members should be called. I am not at all sure how this can be achieved in a fair and equitable way, but time will tell, so I will not condemn it out of hand.

We virtuals have other rules to follow, which do not apply to those Members who are able to get into the Chamber, but I am pretty content to see how things develop. Once again, I am enormously glad that the House has accepted that disabled Peers can still participate in the work of the House. If we have learned anything from this wretched pandemic, it is that technology has enabled us to work in many different ways, which has, incidentally, saved the House quite a lot of money—certainly in my case—in travelling costs at least.

5.06 pm

Baroness Noakes (Con): My Lords, the very helpful briefing provided by the Library for this debate underlines what a mess your Lordships' House is in. There have been reviews of the structure, governance and administration of the House almost constantly for the

last 30 years. They have increasingly focused on managerialism at all levels of the House, but it is far from clear that any of them have made our House more efficient or more effective, and I have not seen any cost-benefit analyses on either an ex ante or an ex post basis. What is clear, however, is that cumulatively they have served to increase the distance between the Members of your Lordships' House and how the House is run. The reviews have never focused on what the House is about or what would make it carry out its functions better. Rather, they have become ever-more elaborate deckchair rearrangements, and we should be in no doubt that they have driven the costs of your Lordships' House up.

During this accretion of change and reorganisation, we seem to have lost sight of the defining feature of the House: that it is a self-regulating House—or at least it was in the past. That should be the guiding star which leads us forward. We should look at each change, whether in the pipeline now or proposed for the future, through the lens of whether it enhances or impairs Members' involvement in the House. I generally believe that we should not go back and seek to recreate the past. The past never was as glorious as we remember it, and not all change is bad or unwelcome. We must set our eyes on the future and work to improve things.

I believe that the weaknesses that we should focus on are threefold. First, we should ensure that the commission, together with all the committees and structures that sit beneath it, genuinely acts on behalf of the Members of your Lordships' House and is accountable to the House. It is not superior to Members; it should resist the temptation to issue edicts and it must be more transparent. Its modus operandi needs to include far more genuine consultation with Members.

Secondly, we need to be clear about the relative roles of the administration and the Members of your Lordships' House. I believe we have lost sight of the fact that the administration exists to serve the House and its Members. Some of this can be laid at the door of the various reviews, but I suspect that the problems go deeper than that. How did it come to pass that the clerks abandoned court dress and wigs in the Chamber of your Lordships' House without the House's authority, as referred to by my noble friend Lord Howard of Rising? How did the clerks' furniture at the table in our Chamber get replaced with chairs that belong in a call centre? What lay behind the shift from the customary address of noble Lords collectively as "My Lords", which we ourselves use, to the more demotic "Dear all"? These may be small things individually, but they are symbols, and symbols are often more powerful than structures and rules.

Thirdly, Members, particularly Back-Bench Members, need to be more involved in decision-making. This is partly about consultation, to which I have already referred, but we also need to look at how the appointments of Members to the key committees are made—whether we can get better Back-Bench involvement through the existing appointment mechanisms or whether those mechanisms themselves need to be reformed.

A part of me wants to review the effectiveness of some of the structures created in recent years. Is the commission adding value? Why does it have a remit of giving "political direction", as the Library briefing tells us? Why do we have a Finance Committee as well as an Audit Committee? Is the Services Committee Member-focused? Does a slavish following of private sector governance by the inclusion of outsiders on both the commission and the management board achieve anything for the effectiveness of the House? I am in danger of setting up another series of reviews, but that would be the wrong solution and would not address the essence of our problems.

We need to become more focused on what Members do in your Lordships' House and become Member-driven again. This means ensuring that our structures work for Members. But that does not need another review—it needs a paradigm shift.

5.11 pm

Sitting suspended for a Division in the House.

5.22 pm

Lord Cromwell (CB): My Lords—I use that term advisedly, given our previous speaker—welcome back. I will endeavour to follow the excellent speeches we have had so far. I will focus on just one issue, highlighting the governance of the key decisions necessary to make progress on restoration and renewal. This cuts across both Chambers, but this is my opportunity as a Peer to raise it in this one. I should perhaps mention that I served until quite recently on the Finance Committee and am now on the Audit Committee. One of my first questions was indeed, as the previous speaker alluded to: why do we have two? But that is for another day.

The Members of the two Houses have the right to decide when, and even whether, to move out and let R&R get fully under way. I know that it would be heretical to question whether essential infrastructural, engineering and health and safety decisions such as these should be made in that way. I cannot bring to mind another public or private sector organisation where that would be the case.

In reserving that right, Members also need to be clear on their associated responsibility for the eye-watering costs being incurred in the interim by delays in the necessary decision-making. The R&R project bodies—the sponsor body and the delivery authority—are set up, staff are appointed and costs are being incurred, but the final decision on going ahead depends on decision-making by parliamentarians to fix conclusively whether or not they are even willing to move out.

I thought the matter had been voted on and settled months ago, but it appears that it will be considered once again and voted on in January. I am not going to stray into the financial implications of one or even both Houses refusing to move out. I simply note that this would very substantially increase R&R costs. My point today is simply this: it is about the money being wasted through delay. I believe that well over £100 million —in fact closer to £200 million—has so far been spent on R&R, despite it not having started and no intrusive surveys having yet taken place.

Substantial sums of public money—in the order of £10 million a month, I believe—will continue to be spent simply on maintaining these buildings and keeping

[Lord Cromwell]
them safe until they can be worked on, for example, keeping the sewerage system going and the fire precautions updated. Much of this expenditure will be nugatory, which is to say that it will not be part of the R&R transformation but is required simply to keep the place ticking over until a decision is made by Parliament and R&R goes ahead in the form that it decides. I believe that not all who govern this decision—nor their constituents, in the case of MPs—are fully aware of the costs that are now being run up in this way. I therefore ask the Senior Deputy Speaker to obtain these figures, which are publicly available, and bring them to daylight. Can he bring further attention to this governance bottleneck? I urge both Houses to exercise their governance roles in this area to enable a speedy and conclusive resolution.

5.25 pm

Lord Shinkwin (Con): My Lords, in the six years since I was introduced to your Lordships' House, I have come to appreciate even more than I already did what a truly amazing institution it is. However, I have also come to appreciate that one particular aspect of our governance represents a real reputational risk that we need urgently to address so that we can focus on the important procedural issues that other noble Lords have rightly mentioned.

We talk a good talk on tackling disability inequality in the laws that we pass, but the sad fact is that we do not walk the walk in how we treat our disabled Members. Indeed, I suggest that the public would be shocked by the extent to which our governance perpetuates disability inequality here in Your Lordships' House. We may have passed into law the duty to make reasonable adjustments because of disability but one would never know that from our governance and the way in which your Lordships' House operates.

Let me provide two examples. In any other professional environment, the fact that I had to learn to talk again and now live with a speech difficulty following life-saving neurosurgery would prompt questions about whether I needed extra time to speak, but not here. I blame no individual for the system we have inherited, but that does not remove responsibility from those who now have the power to change a system that is fundamentally unfair and discriminatory.

As noble Lords may know, I live with brittle bones. In every sphere in which I worked until I joined your Lordships' House, including the private sector, I knew that I would be supported if I needed to take time off to recover from a fracture. However, the harsh reality of serving in your Lordships' House is that, if I broke my leg later today and had to have surgery that necessitated weeks of being incapacitated, I would be completely on my own. For the first time in my professional life, I would be entirely without financial security because the unfair, discriminatory presumption is that not only would I not have a disability that incurred such financial risk but I would have the independent financial means to support myself. I do not. Just when I would be at my most vulnerable because of my disability and possibly unable to contribute, even remotely, to the business of the House for several weeks, your Lordships' House would effectively wash its hands of me.

The Deputy Chairman of Committees (Baroness Healy of Primrose Hill) (Lab): My Lords, there is another Division in the House. The Committee will adjourn for 10 minutes.

5.30 pm

Sitting suspended for a Division in the House.

5.40 pm

Lord Shinkwin (Con): My Lords, although I have never encountered such systemic disability discrimination before, I do believe in self-regulation. But I also believe we need to recognise where the reputational risk of self-regulation outweighs the benefits. Trying to self-regulate on disability discrimination when we have already passed legislation on it is a no-win situation. It is simply a gift for the critics of your Lordships' House, because it says that there is one rule for them and another for everyone else. I am sure none of us needs reminding at the current time how well that goes down with the public. The current situation with regards to the treatment of disabled Members of your Lordships' House gives self-regulation a bad name. If we want to protect the reputation of this wonderful House, which I do, we should stop applying self-regulation to this particular matter.

We have a choice. Do we begin the new year in breach of the disability discrimination legislation that we ourselves have passed, or does the House of Lords Commission use its meeting next week to extricate your Lordships' House from this totally invidious position and make clear that we recognise we have a moral duty to be a beacon of best practice, rather than an exception to it?

In conclusion, that is why I urge the commission to commit unequivocally to respect and apply both the letter and the spirit of disability discrimination legislation to disabled Members of your Lordships' House, with immediate effect. Let us remove this shameful, invidious aspect from our governance, and thereby achieve a goal we all share: to ensure our governance protects and strengthens, rather than undermines, this amazing institution.

5.43 pm

Lord Taylor of Holbeach (Con): My Lords, I am pleased indeed to follow my noble friend Lord Shinkwin, who I am sure all noble Lords here presently admire greatly. His contribution to this House belies any notion of his disability whatever. I am also delighted to be able to thank my noble friend the Senior Deputy Speaker for his speedy response to our debate on 25 October. It was quite a passionate debate and, I think, a difficult one for the House, but the Senior Deputy Speaker responded speedily by withdrawing the recommendation, and the Prince's Chamber was soon back to normal, with the Pugin tables in their place and the pass readers—placed there for the possibility of their being used for ballots—removed.

This debate itself was a commitment made as a result of that debate. I do not know about other noble Lords but I have found that the excellent briefing from the Library just confirms my understanding that I

really do not understand how this House is governed, administered or, as the noble Lord, Lord Davies of Brixton, said, managed. Management is perhaps a missing ingredient of that document, because this is about management as much as anything, and management that affects the Members of this House.

We have, as a result of the debate and yet another report, moved to a change to Oral Questions, which I think has been generally welcomed by noble Lords as being much more real, lively and spontaneous than it was. I think that is a good decision made by the committee and approved by the House.

My noble friend referred to Member-led governance. I wish it were so, but I do not believe that this House does have Member-led governance. If one looks at the way in which we decide matters in this House, there is no sense that suggestions are presented to the House before decisions are made on them. Usually, committees are presented with suggestions, they make a decision and then the House has to approve it. It may be that any other system would be time-consuming and difficult, but I cannot believe that it is impossible for the structures of this House to consult Members more about changes that are being envisaged. Such changes affect us in our daily life in this place and they affect the happiness of this House. I believe that this House functions best when it is content with itself, when it is collegiate in its decision-making and when it is scrutinising legislation and feels it is doing something positive in its democratic role.

I was, for five years, a member of the usual channels, and a pretty active one. I tried to be—I hope I was—effective in that task, but I never really got to grips with what is in this briefing. In many cases it is so arcane, so complex and so difficult to understand exactly what each individual part does in contribution to each other. For example, the external members of the commission are appointed by the management board through "fair and open competition". What is the application? How does one become an external member of this House? What is the fair and open competition? Who actually selects the individuals through that fair and open competition?

When one analyses it at depth, one sees that that is a feature that no doubt goes throughout a lot of other things. Take, for example, the Chief Operating Officer appointment. He is not even mentioned in this diagram—I am sorry to use a visual aid, but noble Lords can see the chart in the Library briefing for themselves. There is no mention of the Chief Operating Officer and where he fits into this structure. He is yet another cog in the machine. This motor—this device that is the governance, administration and management of this House—is so complex that I do not believe any of us fully understands it, even those of us who have participated, or do participate, in its processes.

I believe that this has weakened our ability as a House to cope with things such as R&R and the threat that the House of Commons perhaps wants to remain in the Palace of Westminster. This would mean it moving out of its Chamber into ours; we would have to stay elsewhere while its Chamber and ours are done up, so we could be out of this House for 15 years or so. That may be a rumour, but we are not very well qualified to deal with it.

In my view, this is an overdue debate. I believe that we should have plenty of opportunity to discuss these matters during the daily course of our lives in this place.

5.50 pm

Lord Sterling of Plaistow (Con): My Lords, it is a great pleasure to follow our former Chief Whip, who has become much more benign—even cuddly—than he was in the old days. I thank my noble friend the Senior Deputy Speaker for organising this debate so rapidly. However, as others have commented, I am extremely surprised that, although our present Chief Whip was here at the beginning and has been throughout, the Lord Speaker and the Leader of the House are not here—I beg your pardon. I do apologise; I did not see the Leader of the House there earlier.

The Lord Privy Seal (Baroness Evans of Bowes Park) (Con): I was in a Cabinet meeting, so I am afraid that I had to miss the start of the debate.

Lord Sterling of Plaistow (Con): I completely apologise; I probably missed her because of her mask.

I think that this is one of the most important debates I have attended since I joined the House some 31 years ago. Taking into account our rapid recovery from Covid-19, the fast-changing and dangerous world in which we live and the extraordinary advance of science and technology, I feel that the consideration of today's debate is most timely. This House is considered to be the finest revising Chamber in the world, and all those serving on these committees do this House great credit. However, we have sadly lost public trust, and that goes for the other place as well. The City of London is in a similar position. As one of the greatest democracies in the world, it is vital that both institutions use every endeavour to regain that trust.

I publicly thank Michael Torrance, the clerk in Simon Burton's office, for producing so rapidly this rather splendid Library briefing. It is an extraordinary piece of work. I have to say, personally, I learned much of which I was totally unaware. The sheer complexity of all the committees on which a great number of people serve is heavily intertwined with the other place.

We are very fortunate to have Simon Burton as our Clerk of the Parliaments, who provides us with wise procedural and constitutional advice. His knowledge has been acquired over many years, as he has served in many parliamentary roles. Many Peers here will remember that there was an extraordinary move to find someone from outside this House for this role; I was involved with others to stop such an unsuitable appointment taking place. This causes me to follow through what my noble friend Lord Haselhurst and others have commented on: the appointment of the new COO. This came up over a year and a half ago, by the way. I wanted information about what was being sought and what was being said publicly and put out, but initially

[Lord Sterling of Plaistow]
I was totally refused it. It just so happened that I knew the senior partner of the headhunters; he kindly put me in the picture.

It caused me a huge problem at that stage when the point was built up that somebody with that background or a lack of knowledge about this place could be considered for the deputy. That is very concerning indeed. I will go even further. We were told a few weeks ago that he would also have political involvement. Nobody has as yet explained to me what "political" actually means.

To return to this document, like many organisations of such standing, an array of committees nearly always seems to create silos, major bureaucracy, cost and, worst of all, major delays, causing great frustration. Some months ago, it was publicly stated in our House that its governance should change. All employed on our estate and the service committees should report to, work for and service the peerage. During the pandemic, one was in touch, in many cases on Zoom, with many who served us during those difficult times. They were and are outstanding. They are splendid people. Nothing was too much bother, and I must say that the security and the police have been excellent.

When we all had the honour of being asked to become a Member of this House, we swore the oath of allegiance to serve Her Majesty the Queen and serve her in Parliament. Governance change would help us to use our best endeavours to serve the people of this country.

Many Peers have come from the other place with great experience. Many have served in senior ministerial roles. Many of us have not had a specific political background but have served and still serve in the most senior roles in the worldwide private sector, and of course in other key areas such as defence, medicine and the law. Might I say that we bring a touch of wisdom? As was stated in the House the other day, our role, when appropriate, is to hold the Government in power to account. We must use this combined experience and expertise in what I believe is our other key role of quiet influence to help the highly talented people in the other, elected Chamber to carry out their responsibilities.

Finally, early yesterday morning, I spoke to two of the key seniors in the other place, who are in absolute agreement that such a change in governance is of vital importance to them. They asked me to mention this to noble Lords today. I hope that my noble friend the Senior Deputy Speaker feels that such a change in governance, while retaining tradition, will be beneficial to both Houses, thereby enhancing the reputation and influence of the mother of Parliaments worldwide in the years to come.

5.57 pm

Lord Mann (Non-Afl): My Lords, I beg to differ with my friend, the noble Lord, Lord Sterling, that this by any benchmark is the "finest revising Chamber in the world". I am not sure what the benchmark is. Perhaps we should put whether we should continue to the people by referendum. I recall several hundred votes against the people's will on Brexit. That was not revising; that was hard politics. It was duplicating the role of the House of Commons, yet there was vote after vote after vote.

To be perfectly honest, having come here from the Commons, my observation is that the level of debate here is often as dismal as it is there because it is a replication. Our amendments are often replications. I am looking for the "revising" and I am seeing the political challenges in an unelected House. I have had plenty of disagreements with the Government but I am not elected here. There is the option to be elected in the House of Commons and, for better or worse, the people decide things. This is a gentleman's club—although the one development over the years is that it now allows women in, so perhaps it is more accurately described as a private club. The only thing lacking from the traditions of the House in this debate is the brandy and cigars, with a butler to serve them.

There needs to be a level of reality. I suspect that nobody here would second a resolution for us to have a referendum to abolish this place. What vote would we get? It would be the overwhelming consensus of the British people that we should go. Frankly, the only problem would be those people who do not bother to vote; they would certainly be the majority because, a bit like with police and crime commissioners, most people care so little about us they would not even bother to vote to get rid of something they regard as irrelevant to their lives.

So what should we, as a non-elected Chamber that is bad at revising, do? We should change the way we think about this place. Who is debating the big changes in society? The Commons does not; it never finds the time or structure to do that. We are about to move to a society with cryptocurrencies and virtually no cash; it is one of the biggest social changes in our lifetime. Where is the debate on that? I do not mean debate for an hour, two hours or three hours—I mean weeks and weeks of it. Then there is the internet and how we cope with it. It should not be through party-political or government programmes and resolutions; we must think it through. Is that not where the expertise of those of us present and the rest of the House could contribute significantly on behalf of the country? I put it to your Lordships that that expertise is precisely why people are put in here, and yet we pretend to be a revising Chamber.

Even when it comes to managing the place, frankly, it is a nonsense that, in this Covid nightmare, I and everyone else have to go into the Chamber to try to ask a Question when we had a perfectly good system that allowed people to be selected to go in and reduced the number of people in the Chamber at any one time—I would call that a health strategy for this House. I thought that the voting system that was rejected, which led to this debate taking place, was excellent. But oh no, having a system where one could go through and vote by machine, paid for at great expense, is not for unelected Members.

This is the only private club where you do not pay to join but are paid to attend. Yet noble Lords believe it is valid that we get sound advice on a matter such as that but it is then for us, the Members, to choose whether we should have this, that or the other thing. It

is a bit like Yorkshire County Cricket Club. It survived for 200 years and its members ran it but one day, oops, it is in disintegration. It may not even survive; it probably will, but only by cleaning out the stable, as the public might put it.

I do not think that we need that here. We have to wise up to where the world is at. Who runs this place? I will tell you: the Whips run it. There were 804 committee members when I last counted, and four of them are non-affiliates. I happen to be one of them—that is why I did the count, not that I am bothered about being on a committee. Non-affiliates make up 10% of the House, but only four out of the 800 committee members. It is the Whips who decide things. There is more power for the Whips here than there is in the Commons. It is a different kind of system—for example, they cannot force people to vote and there is no re-election—but the power is just the same.

As members of a private club, paid to attend, we should have a management structure. The only sponsor we could get for this building would be the Wildlife Trusts, given the amount of wildlife that wanders round the corridors—the mice, the rats—because this decrepit building needs an overhaul. I think the people of York are celebrating that we have chosen not to burden ourselves on them, but of course we should get out and let this building be modernised. It is not fit for the last century, never mind this one. If that is the professional advice, we should take it.

We should be embracing technology and having the big debates on the big issues. I do not mean that we should give away our revising powers—do not get me wrong—but let us not pretend that the majority of the votes in here are about improving legislation through revising it, because we know they are not. They are about party politicking and challenging legislation. I have been a party politician all my life, so I love that kind of thing, but it does not seem to me to be the fundamental role of this place. Let us have it properly managed. Let us move with the times. Perhaps then, we might even survive.

6.05 pm

Lord Strathclyde (Con): My Lords, it will be very difficult to follow the noble Lord, Lord Mann. I do not think he and I have been in a debate before and I have to say that I agree with much of what he said and I disagree with much of what he said. But I think that, very early in his career in your Lordships' House, he is in danger of slipping into his own anecdotage; I hope he will be rescued from that.

It is a pleasure to speak in this debate and to have the Senior Deputy Speaker speaking to us and replying on behalf of the administration. It is very early in his career, and therefore I hope he recognises the tremendous interest in this subject, signalled by the number of people who have bothered to come along on a Wednesday afternoon to share with him, in the privacy of this Room—and perhaps a bit wider—their views on the state of this House and particularly its governance.

First, let me give a bit of philosophy about this House. What are we? As a House of Parliament, we are a unique institution. We have unique rhythms, responsibilities and needs. The House cannot be run by those people who are insensitive to its nature, nor by those who invoke any new fashionable strand from some management school—that way madness lies.

In a way, the long list in the Library briefing of all the reviews that have taken place over the last 20 years leads me to believe that there has been a collective loss of confidence by the administration itself. So I want to say something very positive about the clerks of this House, who do a magnificent job and have done for as long as I have been in this House. It is that combination of intelligence, expertise and hard work that makes it so good, and they have learned about us as we have learned about him. It is no accident that the Clerk of the Parliaments himself was once my private secretary—I regard that as being a very good thing. Before he was my private secretary, he was private secretary to the Chief Whip of the then Labour Government. That shows how you need to have people steeped in the culture of the House of Lords, rather than bringing people in from outside who will never be able to learn or understand what we are all about. We are different from a local authority or a cricket club, or practically any other organisation in this country, apart, perhaps, from the House of Commons.

I am sorry that I interrupted the Senior Deputy Speaker in his opening remarks, but it struck me that at no point was he talking about the Members, and I wanted to say a little something about service. We are here to try to serve the needs of the nation and legislation and the great debates of today. We come here and expect a service to be provided, so that we can go about our business as effectively as possible. We have wonderful staff in this House, from the doorkeepers who greet us to the catering staff who provide us with food—it is absolutely magnificent. But there is a sense, over the course of the last few years, of an increased bureaucracy that makes everything much more leaden than it once was. My noble friend Lady Noakes talked about the chairs that have suddenly been changed: they are cheap and nasty chairs, rather than the magnificent chairs we had in the past. None of this is done with any consultation or any feel for the fabric and fibre of how this House actually operates.

I wholly understand that Covid has been the biggest challenge that this House has had to face for very many years. It has come through it admirably, and we have been able to continue our work, so everything I say about the organisation needs to be seen through that prism. I hope that, one day, we will be over all that has happened and can get back to the kind of House that we had before.

I mentioned the organisational chart earlier. It is a very pretty picture with lots of little boxes and beautiful arrows that go all over the place, and at the bottom there is a sign that says "represents". I thought "Aha! Here we are. We're going to talk about the Members of the House", but it does not. It talks about another range of sub-committees. At no point does it reflect the people in this House whom it is here to serve.

On the apparition of lay members on some of our most senior committees, you have to spend so much time trying to explain to them why things are done in a particular way and getting them to understand the workings of the House that I see no merit in having lay

[Lord Strathclyde]
members of the House for a short amount of time to try to learn about us and give us some sort of non-executive expertise. This House just does not need non-executive expertise; if anything, we are a House of non-executives. We all bring so much experience from other aspects of our lives.

I shall take up the point made very well by my noble friend Lady Noakes about the political direction of the House. It is in the terms of reference of the commission. I thought that political direction was rather directed by other people, not by the House of Lords Commission. It certainly should not be.

There are small and trivial points to make about the catering department which I will not bother to do at the moment, except to say that there used to be an excellent system where many of us who asked for it were billed monthly by direct debit. It was an extremely good system. It has been done away with, for no reason that anybody can understand, including the poor old staff, who shrug their shoulders and say that the decision was not made there. Who made the decision? We do not know. That is one example.

We are a special House. We need to be treated specially. I am not looking for great answers today from the Senior Deputy Speaker, but I hope that in his deliberations over the festive season he will think carefully about the representations made today.

6.12 pm

Lord Robathan (Con): My Lords, it is a pleasure to follow my noble friend Lord Strathclyde, for whom I did a sort of job some 15 years ago. I do not think I did much of any use, did I?

Lord Strathclyde (Con): It was very good.

Lord Robathan (Con): How sweet of you to say so. My noble friend said this is a special place. I would describe this House as an unusual place—in fact, I usually describe it as rather weird to friends of mine. In that, I much agree with the noble Lord, Lord Mann. It is extremely unusual. However, it also does some rather good work, and I mention that because the noble Lord, Lord Mann, was rather hard on the House. For instance, the recent amendment tabled by the noble Duke, the Duke of Wellington, about sewage in rivers has changed the way the Government are dealing with sewage in rivers. Similarly, my noble friend Lord Moylan's amendment on hate crimes may yet change the way the police deal with them.

Who runs the House? The noble Lord, Lord Gardiner, said that the commission is the ambassador for the work of the House and one or two other things. That left me slightly confused. It does not seem that it runs the House. However, I shall focus on the Ellenbogen inquiry report. Paragraph 24 states:

"the House of Lords is a self-regulating house; power ultimately resting with its members".

You could have slightly fooled me. It is a very thorough report. It goes on for 131 pages with appendices. It is an inquiry into bullying and harassment in the House of Lords. Those who have been here longer than me may disagree, but I am not entirely clear what the problem was that she was trying to identify. I will look at the evidence in the report. Of course we would like to hope that all of us, every Member of this House and, indeed, every member of society behaves properly. Sadly, we also know that they do not, some, as described in this report at para 167, because of "declining health", which is a bit of a euphemism, frankly. We all know what she means and, short of a medical order, it is difficult to instruct people in declining health to retire. Perhaps we could look at that, but it is another matter.

The report deals with misbehaviour. I say to the clerks listening to this that a lot of the junior staff complain about their line managers telling them what to do and not listening to their ideas when, the report assumes, the junior staff must know better than those who are more experienced. However, I want to focus on the Peers who misbehave. Largely, we talk about discourtesy and some sexual harassment; again, declining health may come in, particularly for the latter. The report talks about elderly offenders; usual suspects are also discussed. It is sad and an embarrassment to us all. They are described as "creepy", which they are, but that is hardly unique to Parliament and it applies to a very small number of people.

Of course this should be addressed—it has been, up to a point, and I think we would all strive to help with that—but, on Members' conduct towards staff, I quote paragraph 159:

"With depressing predictability, the same members of the House were named by contributor after contributor".

Paragraph 160 says that another person told Naomi Ellenbogen:

"'It makes my skin crawl when people say "M'Lord"'."

If that is the case, that person is possibly working in the wrong place. When I was in the Army on the streets of Belfast, I used to call all the people in west Belfast, many of whom might have wanted to kill me, "Sir" and "Madam" because that is the easy way to do it. When I talked to constituents in the other place I would also call them "Sir" and "Madam", largely because I could never remember their names. If you went to a decent shop, such as Waitrose—or, dare I say, Lidl—you would expect people to be polite to you and probably still call you "Sir" or "Madam".

I suggest that we need to read the comments on which the Ellenbogen report is based because out of it came the Valuing Everyone training, which is mandatory and for which several people have left the House. The venerable 90 year-old Baroness, the noble Baroness, Lady Boothroyd, was threatened with discipline. I did it—I am sure that we all did—and found it surprisingly entertaining, funnily enough. With me were a former Prime Minister and a man who is a friend but whom I knew for his behaviour from when I was a Whip in the other place. On at least one occasion he was complained about for being incredibly rude to a police officer, but there was also a pattern so it did not happen just once. I fear that he is the sort of person to which this sort of training is directed, but he got every answer to every question absolutely right. Do you think it worked? Do you think it will change his behaviour? I very much doubt it.

Frankly, I fear that the training was a complete waste of time. A nice person was doing it—she told me that she had been in equality training for 20 years—but what good did it do? I ask the Senior Deputy Speaker: how much did it cost? Was it properly put out to tender? What specific qualifications did Naomi Ellenbogen have when she was selected? Finally, on the Valuing Everyone training, are we going to have to do "appropriate refresher training" every three years, as the report says? I really think that it is nonsense.

Above all, I come back to this point: who is responsible for all this? It is rather embarrassing and demeaning, not to individuals like me but to the House, not to know who is running and responsible for things. In paragraph 221, the report recommends appointing a director-general—we now have the Chief Operating Officer—but this is just bureaucratic job creation, as was mentioned by—

Lord Strathclyde (Con): Everybody.

Lord Robathan (Con): Well, by my noble friend Lord Howard, but yes, by everybody else. Lead administration is better than top-heavy administration. I have seen that throughout my life. You need a streamlined administration so that you have fewer chiefs, fewer expensive staff and offices supporting them, less duplication and fewer meetings. Frankly, you also have less cost and quicker decisions. I fear that the way this House is going is the wrong way, as my noble friend Lord Howard said. It is a sign of a declining institution when you start having burgeoning bureaucracy. As my noble friend Lord Strathclyde said, we need to have confidence in this House and sort out who runs it and who is accountable.

6.19 pm

Viscount Trenchard (Con): My Lords, it is a great pleasure to follow my noble friend Lord Robathan, with whose every remark I strongly agree. I thank the Senior Deputy Speaker for introducing this important debate. It is clear that there has been growing unhappiness expressed by many noble Lords as to how the House is run and how decisions are taken. I recognise how difficult it has been to operate the House during the pandemic; credit is rightly due to those who worked hard to ensure that the hybrid House could continue to perform its essential roles of scrutinising legislation and trying to hold the Government to account. We had all hoped that the pandemic would be behind us by now but, alas, the omicron variant has delayed the removal of the remaining precautionary measures. However, I am optimistic that the mutated virus causes infections no more serious than those with which we are accustomed to living anyway, without having to restrict personal freedoms, which the British people will not stand for.

I have always believed that your Lordships' House is self-regulating, and that decisions to change working practices and the way we do things happen only when supported by a clear majority and after proper debate. Many decisions during the last 21 months have been taken at very short notice and generally without any serious debate. In many cases, it has not been clear who took a decision or when it was taken. Before the establishment of the commission, responsibility was believed to rest in the hands of the Leader of the House, who would operate through the usual channels to determine whether there was support for a particular measure. That is described in the *External Management Review*, conducted by Keith Leslie, as "leadership by convention". The review found that your Lordships' House is "stuck in the middle" between that system and a transparent system of accountability. I fear that accountability for decisions is now even more opaque than it was when Mr Leslie published his review.

There appears to have been a continuing gradual accretion of power to the commission, but that is chaired by the Lord Speaker, who is not accountable to the House. I do not understand why it is not chaired by the Leader, who is so accountable. Furthermore, I do not understand why or how the commission could possibly be responsible for the political direction of the House, as already mentioned by my noble friends Lady Noakes and Lord Strathclyde. I understand that certain changes to our modus operandi were necessary as a result of the pandemic, but I had understood that the House would revert completely to the status quo ante, from which position we could consider carefully whether we wished to introduce any of those, or other changes, on a permanent basis.

In particular, as my noble friend Lord Howard of Rising has already told the Committee, I was given to understand that the clerks would return to their traditional uniforms of court dress and wigs once the need to maintain the hybrid House had passed. I welcome the fact that the clerks have again adopted a uniform, but it is not the same as what they wore before the pandemic. I believe that the clerks should return to their traditional uniforms and not make changes on a permanent basis without a decision by the House. That may not be the most important concern of your Lordships, but the manner in which the decision to change the uniforms was made has upset many.

Similarly, as has already been referred to, the decision by the Services Committee to discontinue the monthly accounts on the grounds that we are not compliant with the payment card industry data security standards is very strange, because other membership organisations with similar numbers of members appear to have had no difficulty whatever in becoming compliant. It is extraordinary that this matter was not quickly rectified months ago.

Many of your Lordships share my preference for the old writing paper. I was told that the old, embossed paper was too expensive, but I believe that the quantity we use today is greatly reduced in this digital age and, on the occasions when we do still need to use it, quality and appearance are important.

As for the changes to the catering facilities and the dining rooms, I understand that some Peers like the present use of the Members' part of the Peers' Dining Room as the Bishops' Bar, but it has no bar. Also, to some extent, it duplicates the Peers' Guest Room in function. Moving the long table to the guests' part of the Peers' Dining Room means that the long table is now clearly visible and audible to guests, which I think is undesirable.

[Viscount Trenchard]

I also refer to the Code of Conduct, which seems to lengthen inexorably at an alarming rate. The inclusion of the requirement to attend "Valuing Everyone" training opens the code to ridicule and resentment.

The need to appoint Tellers greatly restricts frivolous Divisions. Their wands bestow authority. Voting should return to the Lobbies exclusively at an early date.

I shall not labour the House by repeating other changes to which noble Lords have referred, but I ask the Senior Deputy Speaker to act on the opinions of many noble Lords and agree with the Leader, the Lord Speaker, the Clerk of the Parliaments and others a return in all respects to the status quo ante, from which position any permanent changes should be adequately debated and approved before implementation.

6.25 pm

Lord Wei (Con): My Lords, I thank my noble friend the Senior Deputy Speaker for tabling this debate and declare my interest as a partner of the Shaftesbury Partnership, which is exploring some of the tools for governance that I will mention in my speech.

As is right with this House, given its rich and long history as an essential part of our unwritten constitution, it is normal to expect it to flex as times and needs change, while rightly maintaining our traditions. This is no different when it comes to how it is itself governed. I fear, however, that there is a tendency to start not by asking ourselves why we are here and what is the appropriate way to achieve that through governance, but by imposing management structures, dress, furniture and approaches more common in, say, the business world as part of modernisation; or by putting in place training, codes of conduct and rules, as others have mentioned, to counter the caricature of our being a House that is outdated, costly and not always honourable.

As a result, we sometimes forget that we exist primarily to revise legislation or, to put it more plainly, to help make better laws. Our internal governance in both the Chamber and committees, as well as all the support and management of this building and the operations that enable us to do what we do, ought always to flow from that mission: to make better laws. By this yard-stick, on one level, we are doing a pretty good job. At least a third of the amendments we suggest to the other place are accepted and, at the last count, our costs, if you think of us in terms of being around 300 to 400 full-time equivalent lawmakers, are equivalent to those of many other Parliaments around the world. Given that many of us are part-time, it is not off the scale. I do not think that our comparison to the Chinese Parliament is fair as it meets only a few weeks a year.

To top it all off, we are actually quite innovative, despite appearances—not least if you go way back to the idea of being an advisory Chamber to the sovereign or, today, to the Executive and to the other place, but also in the way we discuss and amend laws. As I first observed when I arrived a decade ago, we are a kind of legislative Wikipedia, where we as Peers operate a bit like editors and moderators when we are working at our best. Of course, our adoption of remote voting has in fact allowed us to leapfrog the other place by enabling wider participation, whether during lockdown or after, and to enable information to flow better to help us all make better decisions. This is something to celebrate, not be ashamed of, as long as it helps us make better laws.

Where do we need to improve? Other Peers have mentioned matters relating to the administration of the place and how it could be more transparent and consultative so I will not focus on them, except to ask how they help us make better laws rather than just being reactions to the latest set of media attacks.

There is an area we need to improve: how much our laws are actually used in the courts and deployed for the benefit of the public. Recent analysis indicates that a good number of laws passed by this House and the other place, especially those forced through using statutory instruments, delegated powers, and other Executive measures, were not used at all, or not much, on the ground or in the courts. If you take that as an output as part of an outcome—the better governance of the realm—then input all the debates, speeches and work that we carry out, and the money spent supporting what we do across both our own and the other House, you could argue that there is room to improve.

I have not done the calculation but I suggest that this would come down to several million pounds per law actually used. You might do this calculation every 10 years on a rolling average to take account of laws that get dropped by the Government or courts if they are not useful. Everything we do could flow from this one metric, which you could then optimise based on the quality of laws, the cost of the administration and our allowances leading to the laws and how many get actually used. Ultimately, it is about how much we involve the public, experts, lawyers and judges—whose disappearance from this place I truly lament—to increase the chances of laws working and being used.

We need to build on the success that is born out of innovation. What can be done to improve the chances of us making better laws more efficiently? Strangely, it is not the hours of speeches in the Chamber that improve our hit rate, as it were, nor, I would argue, how we were appointed or elected or in how many codes of conduct we have and how representative we are. Wikipedia does not elect its moderators and is essentially self-governed, like us. Its moderators are not measured by speaking time in chambers, but they seem to create a pretty good encyclopaedia for relatively little cost.

We need to build on the success born out of the innovations in governance that enabled us to be one of the first Parliaments—the mother of Parliaments, in fact—and the first in the land to vote remotely. We ought to partner with the likes of Jimmy Wales to create our own legislative Wiki, which could enable Peers, and one day the public, to interact with draft laws, help shape priorities, suggest changes, predict what might work or not, and know what is being discussed at any one time and why. We ought to harness philanthropic resources and have virtual versions of our Chamber and committees—a Lords metaverse—so that people can learn more about what we do, virtually enact debates and law-making, and understand how we make our laws.

We ought to involve judges and experts in the public to help red-team our laws, supporting committees but kicking the tyres and sense-checking whether what we propose will work on the ground. Every law ought to be road-tested with the public, six months or a year after it has been passed, using technology such as swarm-based feedback, to check whether it is working and being used for the intended purpose. We should harness a rating system, a bit like Tripadvisor or Amazon, to rank laws to encourage a better hit rate.

Finally, I shall close by exploring what this focus on our mission to make good laws might imply in terms of our size. Many noble Lords know my view, which is that we should have a tenure-based system, not a cut-off by age but on the principle that, each time the Prime Minister appoints a Peer, he ought to be able to select from the 10 longest-serving Peers and invite one or two to retire. Over time, this could get us down to an optimal size. The question is how small we need to be in order still to make good laws. Again, if we follow the concept of our being a Wikipedia for law, the question would be how many domains of law we need to make laws on and how many experts we need to moderate those domains. Where there are domains such as STEM, where we are lacking expertise, that might help those nominating new Peers chose people to help fill the gap.

It is time we innovated again to govern well, while honouring what is working well.

6.33 pm

Baroness Bennett of Manor Castle (GP): My Lords, it is a pleasure to follow the noble Lord, Lord Wei. I very much agree with his desire to get greater public involvement in, understanding of and engagement with the operation of your Lordships' House.

Today, we have the rare luxury of a seven-minute speaking slot, despite the subject, the operation of your Lordships' House, being what some might dismiss uncharitably as navel-gazing—this being, as we are always told, the unelected House, limited in power and so unable to block the Government doing things, even when we know they are wrong. That is, of course, two minutes longer than we had yesterday to speak on the enormous changes to our NHS proposed in the Health and Care Bill.

I begin by apologising to the noble Lord, Lord Davies of Brixton, and doing some violence to his division of governance, management and administration, by simply classifying three things into those groups. First, if we look at administration as being about the fabric of this place, we see that there are clearly issues. I am not terribly interested in them, because I think this place should be turned into what it clearly is—a museum—and we could get a new, modern, functional institution; Birmingham would be the obvious place.

On management, if we think about staff, I agree with the noble Lord, Lord Strathclyde, and say how wonderful I have found the staff in the Bill Office, the Table Office, the Library—I do not want to miss anyone out here—and the canteen, and the doorkeepers. So many staff are absolutely brilliant. Like the noble Lord, Lord Davies, I want to think about the unions, and I worry about how some of the staff are treated sometimes; I hope that the unions stand up for them.

That brings me to the third category, which is governance. I will focus on what are generally referred to as the usual channels, on which there was a short paragraph or two in the Library briefing. Given that we have quite some time, I thought I would step back and take a very long view that reflects my current reading: David Graeber and David Wengrow's *The Dawn of Everything: A New History of Humanity*. It focuses particularly on the Palaeolithic and the Neolithic, with a reminder that people tens of thousands of years ago were just as intelligent and creative as we are today—they were biologically identical—and arguably more so, given that they did not have the foundation of the centuries of development on which we build. I do not fully have time to explore this fascinating issue—I definitely recommend a read—but the point I want to draw from it for our subject is that humans have created many different ways of getting together and making decisions. The authors, and many modern archaeologists, posit that we do not require hierarchical, rigid structures, or monarchs or aristocrats, to operate societies, just people gathering together and deciding new ways of doing things.

It is interesting that many have referred to your Lordships' House being self-governing. That might, at least in theory, be what you would describe as an anarchist collective. In that frame, I will explore some possibilities for governance of your Lordships' House, particularly regarding what is done by the usual channels. It struck me that we have structures very like those with which many nations and groups are now successfully experimenting: citizen's or people's assemblies—representative groups that seek to arrive at consensus decision-making, as has been done in the UK and France with the climate assemblies, in Ireland on the difficult issues of abortion and equal marriage, and in some local contexts in the UK, some organised by the Government. These are forms of deliberative democracy. They sound a little like the townhall meetings that the Senior Deputy Speaker proposed. I suggest that these are structures rather like our Select Committees: groups that hear expert evidence, carefully weigh and examine it, and arrive at conclusions.

The way that the usual channels make decisions is utterly opaque and utterly unknown, as many noble Lords pointed out. What if it was replaced with a representative committee that operated openly and made decisions based on evidence and testimony expressed as the will of the House? I have previously raised issues about Select Committees, notably the fact that membership is decided on the basis of allocation by four groups, effectively excluding a large and increasing part of the House's membership. But they are broadly representative—far more so than the usual channels—and from everything I hear, not having had the opportunity to participate myself, they operate in a broadly collegiate and constructive way. My suggestion is that that is how we reorganise the decisions made by the usual channels.

I started by saying that some might view all this as navel-gazing, but the fact is that what happens in your Lordships' House is astonishingly important in our current circumstances; we are far more representative of the country than the elected other place, where 44% of the votes in 2019 got Boris Johnson 100% of

[Baroness Bennett of Manor Castle]
the power. Looking at the fact that our Cross Benches have the balance of power in your Lordships' House, they are quite a representative group, a little like a citizen's assembly or perhaps the kind of structures the noble Lord, Lord Wei, suggested.

I have looked at the big scale, but I want to pick up on a couple of small and immediate points. The first is the disappointment that I know is shared by many Peers about our return to a free-for-all at Oral Questions; here I disagree with the noble Lord, Lord Taylor of Holbeach. We know that there is a gender discrimination aspect to that, although that is not the only discrimination. It benefits the loud, the pushy and the experienced—and yes, I know which of those categories I might belong in.

The second point I wish to raise specifically is about the current deeply uncertain situation concerning Covid-19—indeed, I believe announcements are being made as I speak. Media reports suggest that the Government are about to announce a work from home directive. I do not expect the Senior Deputy Speaker to comment on that, or indeed on the procedures of the House right at this moment, but I very strongly propose that we should hear tomorrow about what will happen in your Lordships' House in light of the Covid situation. I expect that we will see significant changes. On this point, I will finish by coming back to and reflecting on the unsuitability of the fabric of this place. I really hate to think what a carbon dioxide monitor would show in this Room at this moment because I do not think that it is anything resembling Covid-secure.

6.40 pm

Viscount Eccles (Con): My Lords, I will first talk about two things which I think are works in progress. The first is the *External Management Review*, which the Senior Deputy Speaker referred to in his opening remarks. I believe that he has a certain responsibility for what is going to happen as a result of this document, which was published in January last year. It is also fully covered in the excellent Library review, with a big shopping list. Probably the most controversial suggestion in it is that the commission should be made statutory. Your Lordships will wonder whether the present Administration in Downing Street would have any interest in providing parliamentary time for such a thing to happen, but that is probably the most dramatic recommendation in this review. The review is problematic, and I will come back to that.

Secondly, there are a number of things in this House's relationship with the Government and the House of Commons that are a work in progress and need attention. Indeed, those relationships should be a very high priority in any system for running this House.

Before I start on these two issues, we are still, whether we like it or not, a self-regulated House, and we depend upon self-discipline. We do not set our own agenda, except to a very limited extent. We do not select our Members. We get the business that comes from the Government of the day and the business that comes from events. Of course, with our committee structure, we can think about events and make suggestions about the best way in which things might go.

Reverting for a minute to the *External Management Review*, before going out to buy a 133-page report, it would have been of interest for the House to have known at the time what it was going to cost and the qualifications of the people who were going to do it. I have to report that when I got to about page 50, I thought, "Unfortunately, the two people writing this report do not understand the House of Lords." Their minds were on the governance of limited liability companies.

I have had to face up to annual general meetings, and I knew the systems of governance that I had to be aware of. At the Royal Botanic Gardens, Kew, we have legislation of our own, and you know very clearly where you are on the matter of governance. In a charity—and the review mentions Samaritans—you know very clearly what your system of governance is, but it is not nearly as easy to define and be certain about what sort of system of governance this House should have. My perception is that you cannot expect it to be legally enforceable and you have to rely, as we always did, on conventions and on peer group pressure: "This is the way that we do things, and this is the way that we don't do things." That culture in this House is extremely important.

I am not very optimistic about this external management review, despite the very long and well-composed shopping list in the Library report. I think, if I were to sum it up, it is an example of naval-gazing and of looking inwards when an institution should always be very careful to be looking outwards.

That takes to me to my second subject, briefly. We have two reports: *Government by Diktat* and *Democracy Denied?* For the 20 years that I have been here and on both what was then called the Merits Committee and the Delegated Powers Committee, we have always been concerned, and we have been advised by our legal advisers and our clerks, quite brilliantly, about the dangers of framework Bills and legislation that takes a lot of powers but does not really tell you how it is going to be used. These two reports have highlighted that. It seems to me that the way that the usual channels and the Leader respond to these two reports and advise the House on how to respond is an extremely important piece of work in progress.

I also think that, in a minor key, the way that the Government deal with Written Questions is pretty disgraceful. If anybody wants to look at a good example, I recommend the Answers about the Holocaust memorial that is planned for Victoria Tower Gardens. If ever there were, over a period of seven years next January, a list of non-Answers to Questions, they are an example. Again, I think that the authorities—if I may call them that—in this House should be taking up the issue of the standard of replies to Written Questions.

If I might suggest it, in concluding, it seems to me much more important that the commission and the usual channels concentrate on our relationship with the other House and what it is about it that is working well or not working so well, with us as a revising Chamber, fully appointed and, in the end, always giving way but, in the run-up to giving way, trying to make as much sense as we possibly can.

6.48 pm

Lord Hamilton of Epsom (Con): My Lords, it seems a very long time ago that the Senior Deputy Speaker opened this debate, which he did with the question of who runs this House. With all due respect—which means I disagree with him—I think he should have asked who owns this House, because we do. My noble friend Lord Eccles raised the question of whether we are like a limited company—no, we are not, and we are not like a charity, such as Samaritans, the chair of which authored the *External Management Review*.

We are more like a partnership, and noble Lords are all the partners in this business. Everybody else serves us—they are our servants. So, when the noble Lord in his opening remarks said that we are run by this committee and that committee, we have appointed those committees. We must always remember that they would not be there if we had not passed some Motion through the House to ensure that they were there.

Perhaps the problem is that they have taken on a life of their own and have not become as accountable as they should be to us, the Members in this House. I cast my mind back to when it was decided that we should no longer have retired three-star people from the Armed Forces as Black Rod. It is interesting that that decision was taken. Who took it? I do not remember being consulted on the issue. I think it is rather important that we have an input as to who Black Rod should be. When the new Black Rod we have now was appointed, many of the powers of Black Rod were transferred to the Clerk of the Parliaments. When we read the *External Management Review*, it says that the Clerk of the Parliaments is overloaded with responsibilities, so it does not seem to have been a very clever move; therefore, the justification for having a Chief Operating Officer was because the Clerk of the Parliaments was overloaded.

Personally, I get a bit disturbed when we start creating new posts costing tens of thousands of pounds, because one of the remits of the external management review was to save money. I have to tell noble Lords that we will not save money by creating new people in big positions such as Chief Operating Officer. Therefore, the question I have for the Senior Deputy Speaker is this: did we consider reinstating the powers and building up the position of Black Rod so that they could take over many of the new responsibilities that have been given to the Chief Operating Officer? Had that happened, I think we would be in a very different position today.

As it is, we have had this report from the man who runs the Samaritans—I used to be a Samaritan. I was rather surprised because, had he written a report similar to this for the Samaritans, he would have started out with a mission statement as to what the Samaritans are all about. You need mission statements at the beginning of long, complicated reports because they become referral points as to whether you are actually doing what the mission statement says. Our mission statement should be quite short and simple: it should be that we hold the Government to account and try to improve legislation as it passes through Parliament. That would be quite enough and we would have something to refer back to but, as my noble friend Lord Strathclyde said, there was no mention in this *External Management Review* of the Members. It should have mentioned the Members because we own the whole of this outfit, and the whole point of what this House is doing is that we should be served properly to meet the mission statement of what we are trying to do.

What I shall do, if it is all right with the Senior Deputy Speaker, is give him a bit of advice. We have to get much more open about what is going on and get away from this concept that things are being done in our name without our having any input whatever into what happens. I think that he should come to our House at least twice a year and do two things. First, he should produce proposals. If there is tremendous controversy about whether the clerks should wear wigs and what uniforms they should be in, why do we not have a stimulating debate on it? There are obviously arguments on both sides: I am sure the clerks will claim that they are hot and sticky and expensive to maintain but, on the other hand, my noble friend Lord Howard of Rising thinks that they are part of our tradition and we should go back to them. Let us debate it and make the decision on the Floor of the House, then everybody will be happy because we all abide by democratic decisions. I think that, when he has radical proposals, he should bring them to the House and we should debate them and vote on them, not slide them through as orders on a Monday when the thing has only been put down on a Thursday afternoon and nobody has noticed. Give us early notice, give us the facts at our fingertips and let us debate and make a decision on it. We believe in democracy, and that is what we should do.

The other problem with the Shephard report, as the *External Management Review* says, is that it made endless recommendations but none of them were followed through. So the Senior Deputy Speaker should also produce progress reports on decisions that have already been taken and are taking time to get through to say how well they are doing. We need much more openness about the way we operate. I think that the Senior Deputy Speaker will then get the support of Members of your Lordships' House for what he wants to do.

6.54 pm

Lord Desai (Non-Afl): My Lords, it has been a long day in this debate. I put my name down—

The Deputy Chairman of Committees (Baroness Pitkeathley) (Lab): My Lords, there is a Division in the House. The Committee will adjourn for 10 minutes.

6.55 pm

Sitting suspended for a Division in the House.

7.06 pm

Lord Desai (Non-Afl): My Lords, I put my name down for this debate because I did not understand what the governance of this House was. I did not know that we were governed by anybody; I thought that we were self-governing. Since I came here 30 years ago nobody has stopped me doing anything, unless I said something in the Chamber that I was not supposed to say.

[Lord Desai]

In a sense we are a peculiar organisation, as many noble Lords have said, because we are all grown up and we know far too much about governance, debate, protest and so on. I thought that this debate was what Lord Whitelaw a few years ago called "stirring up apathy", in that nobody was really concerned about how many committees we have and what they do. I have never been bothered to know that. I only knew about the Chairmen of Committees because they stood up and said something after Oral Questions and we all had to pay attention. A very nice person called John MacKay—Lord Mackay of Ardbrecknish—was Chairman of Committees for a while, but sadly he died very young. Apart from having Chairmen of Committees, I do not know why we need any other officials.

The peculiar thing that we have heard about in this debate is that we had four committees but now there are going to be two. I presume that that is all right, because I have never taken any interest in what these committees do. They do not bother me and I do not bother them—that governance is best that governs the least. I thought that everything was all right as far as the governance of the House of Lords was concerned.

I have a final few complaints to make but only one is major. The Bishops' Bar has somehow been abolished. It was the nicest thing about the House of Lords, but it has been abolished without anybody asking me whether it should be.

7.08 pm

Sitting suspended for a Division in the House.

7.18 pm

Lord Desai (Non-Afl): My Lords, I am very pleased that I shall go down in the record as a noble Lord who had to make a seven-minute speech and managed to stretch it out to 25 minutes, not through his own fault.

I was saying that I have never had the feeling that I was being governed by anybody, and that is the nice thing about your Lordships' House. There are some useful people who do various useful things for us, but I do not think they are doing anything very much. Except, as I was saying before I was interrupted, I do not know what has happened to the Bishops' Bar, which is one of the nicest things about this outfit. It has been taken off the map and become a vaccination centre. Nobody has explained to me why this happened. Why do we have to go into this not very satisfactory new arrangement in the main Dining Room? I should have liked at least one statement to be made by the Chairman of Committees or whoever is is responsible. When will we get the Bishops' Bar back?

Let me say one thing about this topic. In a sense, we are such a collection of people that if you say, "Have you any complaints?", we can think of many complaints. One constructive thing, which is not on the agenda but is very important and I have thought about for a long time, was referred to a little by the noble Lord, Lord Balfe. It is not a question that the Chairman of Committees can deal with, but I ask it anyway. It is on Peer poverty. I am very serious about this.

I know that there are people who come here out of a sense of public service and for whom the daily allowance is not adequate. These are people who come from outside London. They are very badly treated by the system. They have to have some permanent residence here if they come here from Scotland, Lancashire or wherever, and they have to pay for the weekends, when they are not getting any money for that. I have talked to people, but it is not the sort of topic you can raise in public, because the tabloids would laugh at you because we are all called "Lords": how could Lords have any financial problems?

I do not know who deals with this, but at some stage somebody ought to put upa case that our allowance ought to compensate us for the expense of coming here. Being a London Peer, I am quite happy. I have my freedom pass and can take a bus, so I have no problems. I have a house here. But some people are seriously losing money. I know some women who had worked in social work and voluntary work and were chosen to come here, but they are out of pocket. I do not think we should allow that sort of thing.

If I was like that, who would I go to complain to in this place? I do not know. I actually do not know who I complain to about anything. For example, since coming back after the pandemic I have felt that the acoustics are not as good as they used to be in the main Chamber. I thought I was going deaf, but I have talked with four or five noble Lords and they are finding it difficult to hear. I do not know who to say that to.

Some useful things are needed but I am more or less happy with the way I am governed—or not governed. I am very grateful that other people want to volunteer for these things. I want to volunteer only for Chairman of Committees, which is a paid job, but I am not going to get it, so let it be.

7.23 pm

Baroness Buscombe (Con): My Lords, it is always a pleasure to hear from the noble Lord, Lord Desai. As other noble Lords have done, I wish to focus my remarks on the *House of Lords External Management Review* dated 27 January 2021, which was commissioned by the House of Lords Commission to review the governance, management and organisation of the House.

This review provided a crucial opportunity to consider the role and remit of the commission since its inception in 2016 and its place within the make-up of the Lords. Unfortunately, its authors give the impression that the commission is responsible for the overall leadership of the House. In practice, of course, the commission should avoid entirely any infringement on the constitutional element and role of the House of Lords. Contrary to the findings of the report, programmes for "change" that are essential to our workings—for example, communications and digital—should not be aligned with "organisational", "constitutional" and "rebuilding", whatever "rebuilding" is meant to mean. Indeed, I was not aware that your Lordships' House was broken.

My first question to the Senior Deputy Speaker is: has the commission decided which observations, conclusions and recommendations it accepts? Prior to requests made on the floor of the House on 25 October 2021,

had it occurred to the commission that we, the Members of the House of Lords, might have the right to know? The report sets out a plethora of recommendations for "change" and piecemeal implementation of those changes should surely not have begun before the commission had either rejected any conclusions and recommendations or at least remedied its own—it seems numerous—shortcomings exposed in the report. In fact, the entire report is littered with criticism of the commission yet, other than a sentence on its website, the commission has remained, until now, virtually silent as to its response.

Some fundamentals are exposed; for example, we learn that:

"It has been hard to disentangle some of the governance structures and establish where accountability lies."

Has the commission now appointed a programme director and an oversight panel, as suggested, in order to provide commission direction and support? Judging by the findings regarding the capabilities of the commission, its members need help. In addition, while the commission is

"too large and too busy",

the management board is clearly not fit for purpose given that, as the report states:

"Current … management style and practice is insufficiently effective or agile in dealing with an increasingly complex context of projects and change".

So, the relationship between the commission and the management board needs attention. I understand that, until earlier this year, the two had barely met—if at all—which is a damning indictment of the current workings of the commission. The report states that:

"The Commission is invisible to most of the staff we spoke to and the Management Board is invisible to many Members of the Commission."

In addition, a lack of transparency does not appear to have been of concern either. I wonder what the two lay members think and whether they are happy with the findings of this review—and who are they?

The principal author of the report, Keith Leslie, states that

"Leadership in the House of Lords has much in common with leading at Samaritans".

Having chaired the advisory board of the Samaritans UK for seven years, I can confirm that the House of Lords has very little in common with the Samaritans. Nor should the House of Lords, a self-regulating institution, be in any way aligned with any corporate or not-for-profit structure. Leadership in every sense of the word is crucial. However, we are told that the leadership from the commission is "ineffective". In addition, there is no clear reference to the role of the Leader of the House of Lords, which is quite strange given that the Leader, the Lord Privy Seal, is supposed to be the Leader of the whole House. Also, is it not extraordinary that the Government of the day have precisely two out of 12 seats on the commission? Has not anyone questioned this since 2016?

The report makes 37 recommendations for change, which are

"all well-proven across the UK public sector".

Alarm bells should immediately ring at this point, as huge swathes of the public sector are severely inefficient and ineffective with poor outcomes and poor value for money. Dame Kate Bingham—who had a truly transformational response to Covid—recently referred in a speech to Civil Service "inertia" and a "broken Whitehall", so I suggest that the public sector is hardly a worthy role model for instituting change to the administration and governance of your Lordships' House.

Although the report is peppered with the word "change", with references to committees that some of us have never heard of, including the Steering Group for Change, some proposals make complete sense in principle, particularly with regard to people development of all staff across the estate. Human resources is of course important, although the current emphasis on diversity must not remove focus from ability, skills and experience, coupled with clear pathways for career progression. In this regard, the report exposes a serious flaw wherein it states that:

"The current targets on ethnicity are to attain 38% of applications from BAME candidates with a proportionate 38% offer rate, aligned to the economically active population of central London."

This percentage, which assumes that central London exists as an island without its 1.1 million daily commuters, equates to actual discrimination and is not positive action under the Equality Act 2010. It ignores the fact that the House of Lords is a national institution and should be open to employment from across the UK.

On a positive note, improved communications and the ongoing and frankly extremely good focus on delivery of digital support are key. Is it so complicated that we need an entire change to our organisational structure? Clarity and simplicity speak volumes.

There is good news I would add to the report, which is that while more than 600 members of staff to support around 800 Peers is an extraordinary ratio, the staff are a very precious asset to us all. While it is unwritten, I hope that I speak for all fellow Peers when I say that we value their presence and their support enormously. So much of what makes this House frankly unique is that unspoken relationship, and it echoes the point I made recently on the Floor of the House that this place is ours collectively, as if it were our second home, and it would not be worth a jot without that unspoken and indefinable support.

In conclusion, unbridled change to our governance and structures without respect for our customs and traditions would be bad enough. Change without communication from the commission and allowing opportunities for open discussion and debate among all Members would be a disaster.

7.32 pm

Lord Cormack (Con): My Lords, it is a pleasure to follow my noble friend Lady Buscombe who has given a splendid analysis of that report and in the process said some very disturbing things that should concern anybody who loves this place. Any noble Lord who feels it has a valid role, as I do, must be concerned.

As far as I am concerned, this debate really began not on 25 October but last year—or was it the end of the previous year?—when we were suddenly confronted, without any warning, with compulsory training in how to behave. That, for me, is when it began. It was compounded when we had that extraordinary business of the noble Baroness, Lady Boothroyd, the former

[Lord Cormack]
Deputy Prime Minister my noble friend Lord Heseltine and so on being lined up for criticism. I really felt that it was a place where things were happening without our being prepared in any way. It made me question the governance of the House.

My noble friend Lord Taylor of Holbeach made an excellent speech about this extraordinary document produced by the Library. We are very grateful for it, just as we are very grateful for the Library and those who serve in it, but it is about as comprehensible as the manual which came with my computer. Not having had a computer before lockdown occurred, I relied on two half-hour sessions on the telephone with someone from the wonderful Parliamentary Digital Service. This document is gobbledegook. We need to refine, as well as define, exactly how this House should work and what it should do.

I jotted down a few things. A number of colleagues have referred to the wigs issue. It is entirely reasonable to believe that the traditional dress is right or that it needs changing, but the way in which it was changed was utterly unacceptable. We now have a degree of formality in the uniform, and I am pleased but, as my noble friend Lady Noakes said, it is slightly spoilt by the fact that the clerks sit on call-centre chairs. If the old chairs are not brought back, surely in our wonderful Gothic Chamber we could have some made that fit in with the spirit of the place.

There are so many other things. We had that vote on 25 October. I spoke and voted on that not just because a different voting system was suggested. I was quite in favour of a reader for the cards as a temporary expedient, but when you read the report, you realised that they were trying to do away with the Tellers and change our system of voting in perpetuity. A temporary expedient was being used surreptitiously to change something fundamental.

I am afraid that has been a hallmark of the Covid period. Covid was a reason for many things, and I warmly congratulate all those staff who made it possible for us to function, but others have made it an excuse, rather than a reason. We will have to live with this scourge for a very long time, and we must live in a way that is consistent with the dignity and the proper practices of the House.

I am delighted and grateful that the noble Lord, Lord Touhig, is here. He is chairman of the Services Committee, and he is a man who has truly listened to a number of concerns and complaints that some of us have made—and very grateful we are for that. I hope he will be able to do something about the payment system, to which a number of colleagues have referred, because it is quite absurd that we cannot have a monthly account paid by direct debit. Instead, if we have a coffee, we have to pay for it; if we have lunch, we have to pay for it. Sometimes, it is a little embarrassing when one has guests. It would be far better to go back to that system, and I hope we will, just as I hope we will reinstate, when the necessary use for Covid tests—I use it twice a week myself—has been dealt with, we need the Bishops' Bar as it was. We need the Long Table in the private room, the Long Room. That will help us to have more guests in, anyhow.

I shall refer to two things that have not been referred to at all. I am deeply disturbed that the House is signed up to Stonewall. A number of government departments have detached themselves; I believe the Commons has now detached itself, but we are dependent on Stonewall. Stonewall came into being for a particular reason, but a number of those who brought it into being, such as Matthew Parris, have denounced the way it has embraced the gender issue in a very disturbing way, and I do not believe your Lordships' House should be signed up to it. We should have the opportunity to say we do not want to be signed up to this.

Another thing has come to my notice. In the other place, they have a doctor on duty. We do not. We decided, apparently—or those who decide for us decided—that it was not a justifiable expense. I know that the noble Lord, Lord Touhig, has been campaigning on this and feels it is a justifiable expense. I very much hope that he will be able to persuade his colleagues on the Services Committee that, in your Lordships' House, where the average age is over 70—and I am well above that—there should be medical attention on hand. I urge the noble Lord to continue his campaign.

Who does what was again illustrated today, because when my noble friend the Chief Whip read out the Motion about the appointment of the European liaison group, or whatever it is called, I got up briefly—I did not want to detain the House on a busy day—to point out that it might be a good idea if this unique, new body were chosen, elected, by us, those who will serve there. I truly think there should be more opportunity for us to decide who serves us on a variety of committees.

I will end there, because I have gone over my time, for which I apologise, but I hope some of these points will be taken to heart.

7.39 pm

Lord Dobbs (Con): My Lords, this debate has been a case of cognitus interruptus if ever I have seen one. Sometimes those who are last in the batting order do not have much option other than to go in and have a bit of a slog. So I suggest that our House is in some peril. Our reputation in the wider world has shrunk, our support in the House of Commons has shrunk, and I would argue that our effectiveness as a revising Chamber has shrunk.

As my noble friend Lady Noakes said so exquisitely and eloquently, there is a growing distance between the management of our House and its Members. Who runs this House? We keep being told that it is self-regulating, but that is no longer the case. So many others in this debate have made these points very eloquently, and as a tail-end Charlie I do not think there is any purpose in my repeating them, except to say that I support so many of them.

But since we are tackling the subject of the governance of the House, perhaps I can hit over the head the rumour that we are soon to have another 30 Peers parachuted in to this place. These rumours are clearly fanciful. Why would a Prime Minister want to damage both his own reputation and the reputation of this House by stuffing another 30 Peers on to our Benches? We would end up looking like a Christmas goose, stuffed so full that we simply burst—folie de foie gras,

you might say. On that note, the banning of foie gras from our dining room was yet another of those decisions which none of us participated in—it is probably tucked up somewhere with the clerks' wigs.

What is the question to which another 30 Peers is the answer? I suppose it might be argued that the Opposition in this House have become so bloody-minded that the Government need all those Peers in order to get their business done. The other day, I asked our wonderful Library to look at some statistics to see whether 30 Peers would save the day for Ollie the Octopus, Lucy Lobster and all those other vital bits of government legislation that get kicked about. Of the last 100 Divisions in this House, the Government have won only 27. Another eight Divisions were unwhipped, which leaves 65 Divisions, all of which were won by the pesky Opposition. What difference would another 30 Tory Peers have made to that? Very little, actually, because two-thirds of those government defeats were inflicted by margins of 30 votes or more.

So saving the Government's legislation will not come simply by stuffing the goose—and, as we have heard so many times this afternoon, neither will it come through more administrators, more bureaucracy or, as my noble friend Lord Cormack has just explained, more training videos like the coruscating Valuing Everyone training, which did not value us; it insulted us.

We and our institutions are in a very delicate place. We are vulnerable and perhaps in some peril. I am afraid that very few of the changes put forward in recent times have done anything to improve our public standing. We should not take it for granted that no Government would bother taking an axe to this goose, because I can foresee a moment when a governing party—yes, even my own—will include in its manifesto a pledge to get rid of this House because it would be the popular thing to do. I wonder what any new layer of management or bureaucratic gift-wrapping will do to deal with this threat.

My noble friend the Senior Deputy Speaker, for whom I have the deepest personal respect and affection, is a sensible and a sensitive man. He has listened today and heard from a glorious former Leader of this House, a hugely respected former Chief Whip and many other senior and experienced Members, all speaking with a similar voice. It is a hymn that he needs to listen to; because I know him so well, I am sure that he will listen to it.

7.45 pm

Viscount Stansgate (Lab): My Lords, I understand that it is in the nature of the rules of a debate such as this that, if there is a gap, I am allowed two minutes to fill it.

Next week, I am going to my first school to talk about this House. I have listened to this debate carefully and I shall study *Hansard* very carefully tomorrow because, if I am asked by a clever sixth-former, "Who runs this place?", I need to have a very good answer. I thank the Senior Deputy Speaker for having this debate. I feel, in my case, as though it is part of my induction as a new Member—people know that I am a new Member—and, rather like civilisation in Britain, having more of these would be a very good thing. I am conscious, also, that governance is a very complex thing in a self-regulating House.

When I look at the House, I am conscious of the fact that we are all equal but there are different levels of participation nevertheless. There is a core—someone will know what it is; perhaps 450 or more—of Members who attend regularly. There is a penumbra who come on fewer occasions but make great contributions, and I suppose there are some Members whom we might call semi-detached. I have yet to meet any more than a small proportion of the total membership of the House.

I understand that Covid has made the most tremendous difference to the way in which this House operates. I suppose we are feeling our way back to what we consider normal. I am interested to hear today of all the different small decisions that Members feel have been taken without their being consulted; I think that there is quite a lot of unease about that in many places.

I am also very concerned about the public reputation of this House, which is why I did not expect to find myself agreeing with a great deal of what the noble Lord who has just spoken said in that regard. I have always thought that a future Conservative Government might well decide to go for broke and suggest abolition, so we must be careful as to how we present ourselves. More openness and transparency is a very good thing.

On the Chief Operating Officer, I can only assume that it is a proposal partly designed to take the burden off the Clerk of the Parliaments, who bears a very heavy load of responsibility. I have found in my short time here that the quality of the staff we have is amazingly good. It was a great pleasure, as part of my induction, to meet the Clerk of the Parliaments and talk about it. As for the townhall meetings, I look forward to seeing what they will be like, but anything that can help us to breathe life into the House we are supposed to be will be a very good thing.

7.48 pm

The Senior Deputy Speaker (Lord Gardiner of Kimble): My Lords, this has been an illuminating and instructive debate. A lot of ground has been covered. I am not going to be able to respond to all the detailed points, inevitably. That may please your Lordships but I do not want any noble Lord to think, because of the very detailed and important points that have been made, that I have not made a note, because I definitely have. We need to work on them.

The noble Lord, Lord Strathclyde, mentioned interest. I actually think that we should up our game. All noble Lords are here because they have a deep commitment to this House and what it does for this nation. I am looking at a lot of people who have served the public interest for a very long time. Our job and task, in my view, is to be the custodians of our generation and hand over a House that can continue the absolutely vital role I believe it needs to fulfil for our country.

The noble Baroness, Lady Noakes, referred to self-regulation. In point of fact, we had a consideration only last week of how, as a House, we wanted to proceed in terms of self-regulation. I believe that it is a very cherished principle and a sign of the maturity of this House.

The noble Baroness, Lady Bennett of Manor Castle referred to, sort of, anarchy—I believe that our self-regulation is about a responsibility that we all have to

[Lord Gardiner of Kimble]
maintain order and ensure that business is conducted properly. I think it is incumbent on all Members to respect the House's traditions of self-regulation, mutual respect, forbearance and courtesy. I have been looking very carefully at the conduct of Question Time, and I think that what was missing—that vibrancy—has in fact come about. I very much hope that those noble Lords who were concerned about this will, with time, agree—the noble Baroness is shaking her head, but I think she should give this a little longer rather than taking a view only three days in.

When it comes to the governance of the House, there have to be formal arrangements. We obviously have the custodianship of public funds and powers that are vested appropriately in staff such as the Clerk of the Parliaments and indeed committees, such as the commission. I have noted the point about the commission. I have to say that, having been at Defra for six years, I came back and suddenly found that there was a commission, and I am now seeking to work within the commission, but also to make this House breathe. One thing that I felt very strongly about, in accepting this great honour, is that our purpose is to make the House flourish, not ensuring that the reverse happens. My experience—I am so glad that the noble Lord, Lord Touhig, is here and, indeed, during the passage of this debate, members of usual channels, all of them very busy—is that there is not a single person I know of both Members and staff who does not wish the very best for this House; they are united in that purpose.

So, we need to do better. We need to do better not only in our internal communications with noble Lords but in the very important point, in my view, that has been raised by the noble Lords, Lord Haselhurst and Lord Wei, and the noble Viscount, Lord Stansgate, at the end about ensuring that the House of Lords is represented properly and fully in the national discourse. That is where we should be promoting the work that we do. That is why I want to highlight the tireless work of staff in promoting the work that your Lordships undertake. Everyone always looks at the dark side, unfortunately, but since our return from the Summer Recess, there have been 2,968 print or online articles or broadcast features about the work of the House of Lords committees, a clear reflection on the experience and expertise of the House.

I also want to say something to the noble Baroness, Lady Buscombe. I absolutely am in tune with her that we need to ensure that we engage with the widest range of talent to come to work in the House from all members of the public and all parts of the country. We need to be open and professional, and all of us—I know that everyone here does—need to treat everyone with courtesy and respect.

I have a great sheaf of questions to answer, which will be impossible in the time, but I want to run through some very important features of what has been discussed. The noble Lord, Lord Haselhurst, referred to joint working with the House of Commons catering service. That is tremendously important; I know that our catering and retail services collaborate very effectively in joint working. Indeed, the senior management of both teams meet weekly to share best practice, ideas and solution and to ensure that we align strategically and operationally—gosh, that is quite a lot of jargon, but I hope that noble Lords will understand what I mean. It is valuable that the noble Lord, Lord Touhig, is here as he chairs the Services Committee. These are areas where this collaboration can enhance what we have and ensure that noble Lords are well equipped with what they need. Digital was mentioned in particular, I think, as another success of innovation.

Fire evacuation was mentioned. I mentioned in my opening remarks that the Services Committee has that under review and consideration. If noble Lords are concerned about any issues of that variety, I know that the noble Lord, Lord Touhig, and the Services Committee actively want to ensure that the House has the services it requires.

The noble Viscount, Lord Eccles, referred to two excellent reports. I attended their webinar launch, and the Government will respond in due course. They highlight the fine examples of what the House does best: detailed, expert, cross-party scrutiny of issues of national importance. I always think it is a great mistake to give an uninformative answer, whether to an Oral Question or a Written Question, because all it does is invite further questions, so my encouragement is always to answer the question.

The noble Lord, Lord Wei, mentioned innovation again. I am not very technical myself, but I am committed to the view that we should be road-testing laws, as he mentioned. I am glad, for instance, that the Liaison Committee has yet again proposed a post-legislative scrutiny committee.

The noble Lord, Lord Strathclyde, referred to confidence. One reason why I think that this debate, which we will carry on by varying forms, is essential is because I want this House to be confident of itself. I am not sure that I feel part of an ownership of the House of Lords; I see us as custodians of a hugely important institution. It is of enormous import. I certainly see confidence as part of my responsibility: to work with noble Lords to make sure that they are confident in how this House is run.

A number of points were made about catering accounts and access to GPs. They are all matters I will be working on with the noble Lord, Lord Touhig.

Questions of workplace culture were raised by several noble Lords. The point has been very much hoisted, I assure noble Lords. Obviously we must all treat everyone, staff members, individually and collectively, with respect. We need to attend to how that can best work for noble Lords.

The noble Baroness, Lady Harris of Richmond, mentioned this: if there was ever a need to have hybrid working, for whatever reason, the technology is there, but this would need to be agreed by the House.

The noble Lord, Lord Shinkwin, referred to a number of matters. My door is, as they say proverbially, open, as is the Lord Speaker's. Noble Lords are not employees and are not salaried, but we want to ensure that all noble Lords can participate. That is why I am very pleased that we were able to work a system that has enabled virtual contributions for Members with long-term

disabilities. At its meeting next week, the commission will also consider the issue of allowances claimable by Members with long-term disabilities who participate remotely.

A number of points were made about consultation—another word I have taken back. I say to the noble Lord, Lord Taylor of Holbeach, that that was one of the considerations I took back from 25 October, and before that. I think it was the noble Lord, Lord Rooker, who used the word "bounced". I am determined that noble Lords are not bounced in any proposals that I am responsible for bringing forward. Unless it is an emergency, when it would be commonsensical that something had to be dealt with promptly, there will be proper time for noble Lords to digest and come back. I also pick up the point that, before it gets into that tube, an understanding and a consensus should be growing around a particular subject, because I assure noble Lords that I do not want to take back reports that have involved a lot of work because noble Lords were very unhappy about them. That is a waste of everyone's time. I say that very strongly.

R&R was mentioned, including by the noble Lord, Lord Cromwell. Again, this is a key factor for our House and the other place which we must deal with responsibly. The figures are enormous. The chair of the Finance Committee—the noble Lord, Lord Vaux—was here earlier. This is a matter on which he and I and other noble Lords that are dealing with this matter, with responsibility from the House of Lords, are very concerned about.

The noble Lord, Lord Balfe, raised a point about allowances. This is a matter for the commission. The current system is not perfect, but it was felt at the time that the better option was to put in place a simpler and clearer scheme, rather than one that was increasingly complex, bureaucratic and could get us into difficulties. I do not want to say any more than that.

The noble Lords, Lord Balfe and Lord Davies of Brixton, and the noble Viscount, Lord Stansgate, spoke about the role of the COO. This decision was made before my time, but I understand that it was to bring greater capacity and, indeed, a range of experience. As I said specifically, this is not to do with our affairs in the Chamber or committees. Frankly—I can say this, but the Clerk of the Parliaments could not—this is about the enormous burden of responsibility we place on the Clerk of the Parliaments and to ensure that his role remains possible with all the other responsibilities he has. That is very important. I obviously want to ensure that we have the results and success that we all want from that appointment. One thing I will say off-script is that when I looked at some of our arrangements for management and administration, I thought there was quite a lot of streamlining and work still to be done. Doing that in those areas would be for the benefit of the House in terms of value for money and perhaps getting a less bureaucratic—I might even say Byzantine—system.

The noble Baroness, Lady Noakes, raised a point about the intent of the commission. I have attended those meetings since May, and I have never at any moment thought that our consideration—whether internal or external members, or individually or collectively—did anything but work for the best interests of the House and, of course, for the public we serve. I would also say, again in my experience, that the privilege of working with the administration and management is their focus on wanting to support and strengthen the House.

Two noble Lords raised the interesting question of why we have both a Finance Committee and Audit Committee. That came out of the Leader's Group on Governance chaired by the noble Baroness, Lady Shephard. It was considered by the House Committee at the time and approved by the House, but this is obviously something I want to work through.

The noble Lord, Lord Desai, and others mentioned the Bishops' Bar. Having used it all the time I have been here, I know that it is very highly regarded. This has been the subject of a Members' survey; it is under active consideration by the Services Committee, which is keen to hear noble Lords' views on this matter. We have to accept, with the current arrangements, that the Bishops' Bar is a very small space; that is probably why we like it. But it is currently being used, I think very valuably, as the Covid testing centre. It is very convenient. I am now going there once a day to have a test because it is so straightforward and very easy and because it is an important thing to do.

On Stonewall, this is up for renewal and consideration in February of next year. In January, our HR director will be involved in considering the business case and return on investment for this membership and I am very grateful to noble Lords for some of the expressions that have been raised today, which I shall ensure form part of that consideration.

I have not answered all the questions, I know, and there are some clear ones, but I can sense I am starting to test the patience of noble Lords. I like the directness and frankness of many of my former noble friends—former in one sense only. I believe, and I think all noble Lords believe, or I hope they do, warts and all, that we have a vital role to fulfil. We must ensure that our governance and organisation support the House in carrying out that role. As well as having a continuous focus, as we do, on holding the Government to account, I think we should have a long-term perspective as to the custodians of this institution. I think the noble Lord, Lord Mann raised this. I did not agree with that all he said, but I think he hit on some very important points. We must be professional, responsible, respectful and inclusive. We must have the highest standards of governance for a public sector body and we must be mindful of our reputation and public expectations, mindful of the point of the noble Lord, Lord Strathclyde, that we are unique.

We must also have due regard and recognition to our culture, our history and our heritage. This was raised by a number of noble Lords, the noble Lord, Lord Howard of Rising, in particular. It is important that we all work together to find the right balance between these aspects of our work, between traditional virtues and modern best practice, so I am very grateful for the engagement of today's debate. The Lord Speaker will be holding these town hall meetings. The first is planned to be held on Tuesday 25 January—please, mark in diaries. The noble Lord, Lord Hamilton, of Epsom, raised another important word, "openness".

[Lord Gardiner of Kimble]
I am not a secretive person and I want this House to be as open and transparent, and as accountable and effective, as possible. We must demystify some of the issues that have been raised by all noble Lords today, so I encourage attendance.

I conclude, noble Lords will be pleased to know, by saying that I believe that the House is a constitutional safety valve. We ask the Executive and the elected House to think again. This House is an essential part of upholding our constitutional arrangements and I believe we should be confident of our purpose. The noble Lords, Lord Strathclyde and Lord Robathan, raised the point of confidence. I think we should, I repeat, be confident of our purpose. I believe this requires statesmanship and judgment.

This House has an extraordinary range of experience to offer to the national discourse; that is why good governance of the House must be of the top order and why I believe this debate has been constructive and valuable and, if I may say, continuing. I am not in a position to wave a magic wand and resolve all the issues that have troubled noble Lords, perhaps over a little while, perhaps, but I hope that with openness and dialogue, some of these matters can be resolved in a responsible manner in a way that enables noble Lords not only to derive satisfaction from coming here, but to ensure that the primary reason we are here can be fulfilled.

Lord Hamilton of Epsom (Con): Before the Senior Deputy Speaker sits down, does he know why it was decided that retired three-star military officers would no longer be Black Rod?

The Senior Deputy Speaker (Lord Gardiner of Kimble): I can say that there has been fair and open competition since 2001. The first few recruitments still led to the appointment of former generals.

Motion agreed.

Committee adjourned at 8.09 pm.