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PARLIAMENTARY DEBATES
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HOUSE OF LORDS
OFFICIAL REPORT

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The following abbreviations are used to show a Member's party affiliation:

Abbreviation	Party/Group
CB	Cross Bench
Con	Conservative
DUP	Democratic Unionist Party
GP	Green Party
Ind Lab	Independent Labour
Ind SD	Independent Social Democrat
Ind UU	Independent Ulster Unionist
Lab	Labour
Lab Co-op	Labour and Co-operative Party
LD	Liberal Democrat
Non-afl	Non-affiliated
PC	Plaid Cymru
UKIP	UK Independence Party
UUP	Ulster Unionist Party

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

House of Lords

Tuesday 15 March 2022

2.30 pm

Prayers—read by the Lord Bishop of Durham.

Introduction: Lord Harrington of Watford

2.36 pm

Richard Irwin Harrington, having been created Baron Harrington of Watford, of Watford in the County of Hertfordshire, was introduced and took the oath, supported by Lord Mendelsohn and Lord Leigh of Hurley, and signed an undertaking to abide by the Code of Conduct.

Housing for Older People

Question

2.42 pm

Asked by ***Baroness Greengross***

To ask Her Majesty's Government what progress they have made towards establishing a cross-departmental taskforce on housing for older people.

Baroness Bloomfield of Hinton Waldrist (Con): My Lords, as announced in the recent levelling-up White Paper, we will shortly launch a new government task force on the issue of older people's housing. It will look at ways to provide better choice, quality and security of housing for older people. This work will be taken forward in partnership with the Department of Health and Social Care and sector experts. Further details will be announced in due course.

Baroness Greengross (CB): My Lords, I thank the Minister for that Answer. Does she agree that the integrated retirement community model needs to be expanded and to receive additional funding from Homes England if we are to ensure that older people are given the opportunity to live in appropriate housing that fits their needs?

Baroness Bloomfield of Hinton Waldrist (Con): I pay tribute to the noble Baroness for the work that she has done in this area in championing this cause. The Government are committed to further improving the diversity of housing options available to older people. We believe that offering older and more vulnerable people a better choice of accommodation to suit their changing needs can help them to live independently and feel more connected to their communities. Boosting the supply of a range of specialist housing for older people, including housing with care, will be key to achieving this aim.

Lord Young of Cookham (Con): My Lords, it has been estimated that some 3 million pensioners would like to downsize but cannot do so because of the lack of suitable housing, with only some 7,000 homes for the elderly being built each year. Local authorities use Section 106 to require developers to build homes for first-time buyers. Could not that section also be used to build homes for last-time buyers, thereby freeing up their homes for families?

Baroness Bloomfield of Hinton Waldrist (Con): My noble friend makes a very good point. The need to provide housing for older people is critical. People are living longer lives, and the proportion of older people in the population is increasing. In mid-2016, there were 1.6 million people aged 85 and over; by mid-2041, this figure is projected to double to 3.2 million. Offering older people a better choice of accommodation to suit their needs can help them to live independently for longer. Therefore, an understanding of how the ageing population affects housing needs is something we need to consider from the early stages of plan making through to decision-taking. On using Section 106 agreements to require developers to build appropriate housing for last-time buyers, I am sure this is something the task force may well consider.

Baroness Warwick of Undercliffe (Lab): My Lords, nearly one in three social housing tenants is over 65, and housing associations provide three-quarters of supported housing. What steps are the Government taking to ensure that housing associations have a voice in the new task force for older people's housing?

Baroness Bloomfield of Hinton Waldrist (Con): The new task force will encompass a range of views from across the industry, from investment to housebuilders to local authorities, and will be led by Stuart Andrew, Minister at DLUHC, assisted by Gillian Keegan, Minister at the Department of Health and Social Care. All these issues will be looked at. I understand that the first meeting is likely to take place just after the Recess.

Lord Flight (Con): My Lords, the Government will be aware that, in urban areas, there are still large numbers of older people living in high-rise buildings. Will it be a programme of government to change that?

Baroness Bloomfield of Hinton Waldrist (Con): As I said, the Government will be looking at all ways of making sure that we have an appropriate housing stock for older people, ranging from supporting people in their own homes to giving them the opportunity of going to live in supported villages with on-site care. I agree that it may not be ideal to be in a high-rise block, but it has to be a matter of choice for the individual.

Lord Kennedy of Southwark (Lab Co-op): My Lords, will the noble Baroness join me in paying tribute to the almshouse movement and the fantastic work it does on accommodation for older people? I refer the House to my interests in the register. Will she agree to come along to visit the United St Saviour's almshouses that have been built on Southwark Park Road, of which I am very proud to be a trustee? These are fantastic, 21st-century homes for older people, freeing up council homes that can be let to families.

Baroness Bloomfield of Hinton Waldrist (Con): I thank the noble Lord for raising that issue. I would be delighted to visit. I am sure the almshouse movement should also be feeding its ideas into the task force. It is a special movement that has survived over many years, and I am sure its voice would be valued.

Baroness Jolly (LD): My Lords, a home that seems perfectly fine for someone aged 70 quickly becomes difficult as they approach 80. Many are at a loss, and advice and choice are not always easy to find, especially for those who do not have access to the internet. When does the Minister expect the task force to be up and running?

Baroness Bloomfield of Hinton Waldrist (Con): As I said, the complete membership of the task force, which is to be led by Stuart Andrew, is still being put together. All I have managed to push the department to say is that it will be meeting for the first time shortly after the Recess.

Lord Best (CB): My Lords, the task force, which was first announced on 25 May last year, is indeed very welcome. Will the Minister confirm that it will consider all the options here, including shared ownership housing for older people, which is the subject of an inquiry I am currently chairing by the APPG on Housing and Care for Older People? Could shared ownership be the answer for those in the squeezed middle who cannot afford to buy somewhere more suitable but for whom there is no social rented housing available?

Baroness Bloomfield of Hinton Waldrist (Con): I pay tribute to the work of the noble Lord, Lord Best, in this space. As I said, the task force will be looking at all these issues. The noble Lord will be aware that, in April last year, the Government launched a new model of shared ownership, specifically targeted at older people—it is in fact called older people's shared ownership. The parameters it set reduced the minimum share required for ownership from 25% to 10% of a home's market value, so lowering the cost of the deposit required. It introduced new staircasing arrangements to make it easier for a homeowner to purchase more of their home, and implemented a new tenure initial repair period, during which the housing provider is required to support homeowners in new-build homes with the cost of maintenance and repairs. We also extended the minimum lease term from 99 years to 990 years, which will prevent homeowners having to pay to extend their lease.

Baroness Jenkin of Kennington (Con): My Lords, a couple of years ago, the noble Baroness, Lady Greengross, and I were on the Intergenerational Fairness and Provision Select Committee and we took evidence from the late Sir John Hills, who said that there was enough housing stock in the country if it were used better. We also took evidence from organisations such as Homeshare, which promotes the opportunity for older people to stay in their own home for longer, which is what they want, with a young person living with them at very minimal cost to them both. Will the Government do more to promote innovative schemes such as those which enable older people to stay in their own home for longer?

Baroness Bloomfield of Hinton Waldrist (Con): I thank my noble friend for raising that question. In fact, there was an article in the *Sunday Times* a couple of weeks ago about a friendship that had formed between a young student who had gone to live with an older person. In return for free housing, he was providing gardening and shopping services, and two years into the pandemic they are now the greatest of friends. Models such as Homeshare clearly have a lot to offer. Generally, the department thinks it is great to see innovative models of housing which are contributing to our aim of enabling older people to live healthier, independent lives for longer and preserve their independence and connections to the community. My noble friend is quite right: we estimate that there are currently something approaching 3.7 million of underoccupied houses, but many people wish to stay in their house and are looking for a scheme such as Homeshare to be able to do so.

Lord Anderson of Swansea (Lab): My Lords, the noble Lord, Lord Young, spoke of the objective of freeing homes for families. Would the Government consider increasing the incentives for older people to vacate their homes, which are too large for them, to make way for younger families?

Baroness Bloomfield of Hinton Waldrist (Con): The noble Lord is absolutely right. There are a number of barriers to older people wanting to sell their current home. The task force will look at ways to incentivise that. That might be through the tax system or through incentivising more suitable housing to be built locally by housebuilders. For example, in New Zealand, I believe that five of the top 10 housebuilders are geared towards providing home villages for the elderly.

Lord Kakkar (CB): My Lords, will the task force be able to consider potentially adopting building standards that would facilitate accommodation for elderly people to ensure that management of their chronic conditions could be most effectively delivered at home rather than requiring admission to hospital?

Baroness Bloomfield of Hinton Waldrist (Con): The noble Lord speaks with great authority. That is one of the reasons why the Department of Health and Social Care is also feeding into this task force. There will continue to be certain planning issues, but the planning system has to provide for a wide range of housing needs. However, we have consulted on both options to raise the accessibility of suitable homes for older and, indeed, disabled people, and we will set out the next steps and the government response in due course. We have already published guidance to help councils implement the National Planning Policy Framework. More detail will of course be announced in due course, and I am aware that a planning White Paper is due to come out shortly.

Payments to Train Operating Companies
Question

2.53 pm

Asked by ***Lord Snape***

To ask Her Majesty's Government what estimate they have made of the impact on train services of a 10 per cent reduction in payments from the Department for Transport to train operating companies.

The Parliamentary Under-Secretary of State, Department for Transport (Baroness Vere of Norbiton) (Con): My Lords, the department has no plans to reduce payments to train operating companies by 10% and has not assessed the impact such a reduction would have on train services. As noble Lords would expect, we have asked operators to provide credible, efficient and sustainable business plans which will deliver reliable and resilient train services that adapt to passengers' evolving needs and drive value for taxpayers.

Lord Snape (Lab): My Lords, will the Minister accept that the twin attacks of a 3.8% increase in rail fares, the highest in almost a decade, together with any reduction in subsidies—I would still like to know exactly how much the Government are prepared to put forward towards our rail industry in the next financial year—will lead to reduced numbers of passengers travelling by train and more congestion and pollution on our roads? Surely that is not the way forward as regards the Government's carbon reduction targets.

Baroness Vere of Norbiton (Con): The Government are very focused on making sure that the services we provide for passengers meet their needs. Ridership at the current time is around just under two-thirds of what it was pre-pandemic. There may have been substantial and enduring change, so we are working with the train operating companies, asking them to look very carefully at timetables, remove duplications where possible and look for savings and efficiencies. At the end of the day, we need to provide services that meet passengers' needs, and they need to be punctual and reliable.

Lord Austin of Dudley (Non-Afl): My Lords, if the Government are not cutting subsidies for the train operating companies, can the Minister tell me why services on the west coast main line have deteriorated so badly over the past year or so? Trains are often cancelled, frequently overcrowded and often late. I never thought I would be saying, "Bring back Branson", but services under Avanti appear to be markedly worse than they were previously. What are the Government going to do to improve the situation?

Baroness Vere of Norbiton (Con): In the broader scope of things, Great British Railways will be developing the whole industry strategic plan; the call for evidence for that has now closed. We are also asking each train operating company to produce annual business plans, which will streamline the passenger offer, make sure demand is actually met and in balance with the supply, remove duplication, as I said, and ensure that operations are as efficient as possible.

Lord Rosser (Lab): It is clear that government demand in savings running into many millions of pounds will result in cuts in Network Rail's maintenance budget. We have already seen what a casual approach to Network Rail and the use of outside contractors can lead to in the light of previous accidents at Ladbroke Grove and Potters Bar, and a recent report into the train crash at Stonehaven in 2020 found that a drainage system wrongly built by Carillion, which subsequently went bust, and left unchecked by Network Rail led to the crash. The Rail Accident Investigation Bureau said that the tragedy was

"a reminder how potentially dangerous Britain's volatile weather can be."

How did the Government come to the conclusion that now is an appropriate time to make major cuts in maintenance roles on our railways, and will they now reconsider their decision in the interests of safety, which should be the paramount consideration, rather than financial considerations?

Baroness Vere of Norbiton (Con): Safety is, of course, the priority for everybody who works in the railways, and the tragedy at Stonehaven is deeply regrettable. The Government have no intention of diminishing the work we do on safety and maintenance—it is extremely important—but we must look for efficiencies within the system, because we have seen this significant reduction in demand, we must make sure that we protect the taxpayers' investment, and that is what we are doing.

Baroness Randerson (LD): My Lords, as other noble Lords have mentioned, the 3.8% increase in rail fares simply adds to the financial pressure on families at this difficult time. Does the Minister accept that, now that the Government have ended the franchise system, with revenue from fares going straight to the Treasury, it is entirely in the Government's hands what policy they choose to use in future to attract passengers back on to the railways? Does she accept that, for environmental reasons, it is essential that lower fares are used to attract passengers?

Baroness Vere of Norbiton (Con): Of course we would like to keep fares as low as possible, but we also need to support crucial investment and pave the way for financial sustainability for the system as a whole. When we took the decision on regulated fares, we looked at inflation and chose to peg it to July's RPI, which resulted in an increase of 3.8%. Of course, it could have been much higher had we used an RPI from a later month. We also delayed the introduction of the increase by two months, which was particularly beneficial for those buying annual season tickets. There are other ways we can encourage people back to the trains, and we are doing as much as we can, working with the train operators. For example, the Book with Confidence intervention was extended to 31 March. That allows customers to rebook their tickets if they are unable to travel, without administration fees.

Lord Lea of Crondall (Non-Afl): Can the Minister draw our attention to any statistical evidence for the notion, which is counterintuitive, that a vicious circle is not developing here between cutting services and raising fares?

Baroness Vere of Norbiton (Con): I do not accept that at all. It is right that we ensure that our services meet the needs of passengers and are punctual and reliable, and that the contribution from the national taxpayer is appropriate. There will be areas of duplication and areas where efficiencies can be found. The *Williams-Shapps Plan for Rail* states that in five years' time, savings of about £1.5 billion should be available after simplification and efficiencies. Those are the things we are trying to drive out of the system. We want passenger services to be as good as we can possibly make them because we really would like people to travel on our railways.

Lord Moylan (Con): My Lords, does my noble friend have a view on the level of unionisation on the railways and what are the consequences of it for the cost of staff and pay?

Baroness Vere of Norbiton (Con): My noble friend makes a very important point. All noble Lords will have seen that there is a level of unrest among the unions that represent those working on the railways. Sometimes I feel that their behaviour might be potentially counterproductive in the long term. For example, we have strikes at the moment on the London Underground where, because of the pay deal that was reached a couple of years ago, the staff will be getting a pay increase of 8%.

Baroness Pinnock (LD): Can the Minister explain how raising fares and cutting subsidies to the train operating companies contributes to one of the key aims of levelling up, which is to improve public transport? I ask her to think about Yorkshire especially in this context.

Baroness Vere of Norbiton (Con): My Lords, I am always thinking about Yorkshire. The noble Baroness raises an important point. There is an amount of money that will be going into the system, which will be used to service what is at the moment a lower number of passengers. That is where we must get the balance right. We must work with industry to support it on the initiatives and boost demand, also ensuring that the services are there when they are needed. The increase of 3.8%, compared with what inflation is currently, is not significant, given that we could have had a more significant increase had we used an RPI from a later month.

Lord Berkeley (Lab): My Lords, I press the Minister a little more on the question asked by my noble friend Lord Rosser about Network Rail's costs. I understand from many in the industry that Network Rail has been told to cut its costs by 40% in the coming year. That seems an enormous amount, compared with what it is doing at the moment and the need for safety. Can she confirm whether that is true or completely wrong?

Baroness Vere of Norbiton (Con): I do not have that figure with me, but I will certainly write to the noble Lord with further details around Network Rail's expectations for the coming years.

Lord Walney (CB): Does the reduction in passengers, which the Minister says may well be structural, not further endanger the investment case for HS2?

Baroness Vere of Norbiton (Con): I do not think that is the case. Obviously there are various scenarios which we consider when we look at HS2. It is a very long-term strategic system. It connects many of our major cities across the country and, provided that we get local transport integrated with that investment with HS2, it will be successful.

Lord West of Spithead (Lab): There was an article in the paper this morning about closing many ticket offices. Is this likely to happen? If so, is that a better service for the passengers on our rail network?

Baroness Vere of Norbiton (Con): Ticketing and fare reform is a key part of what we hope to do with Great British Railways. The leadership there will help with the mass of complicated fares which currently exist. We will be supplementing that with £360 million of investment in fares, ticketing and retailing. We will deliver contactless pay-as-you-go in 700 stations in urban areas across the country, including 400 stations in the north, and we will provide digital ticketing across the network and upgrade ticket vending machines. Obviously we will have to look at the number of ticket offices available, but we will also ensure that people get the level of customer support that they need.

No-fault Divorce

Question

3.03 pm

Asked by ***Baroness Deech***

To ask Her Majesty's Government, further to the letter from Lord Keen of Elie to Baroness Deech on 16 March 2020, what progress they have made on reforming the law governing financial provision on divorce to align with the introduction of no fault divorce.

The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Wolfson of Tredegar) (Con): My Lords, the letter from my noble and learned friend Lord Keen was sent at the conclusion of the parliamentary process for the divorce Act. In the intervening two years, we have prioritised the implementation of the fundamental reforms of that Act, which will commence on 6 April. Following that commencement, we will consider how best to proceed with the commitment in that letter, and we will announce our intentions in due course.

Baroness Deech (CB): My Lords, the new no-fault divorce law is coming into force in three weeks' time, but the most miserable and litigious part of it will

remain: the law about splitting assets and paying maintenance. That law is so bad that the ministry is paying couples £500 each to mediate and avoid it. The promise was made two years ago to review it; where is that review? Gathering evidence is no excuse for not formulating principle, and I can offer this piece of evidence right away: legal costs eat up chunks of the assets. Unless it is reformed, the no-fault divorce law will fail to achieve its aims. Will the Minister assure the House that vested interests are not blocking reform, and will he give a timetable for completion of the financial provision project?

Lord Wolfson of Tredegar (Con): My Lords, I do not make any apology for the mediation voucher scheme; it is important to encourage mediation in family law, as indeed across the civil justice system more generally. However, we have committed to exploring the financial provision aspects of divorce after the Act comes into effect. I cannot give the noble Baroness a timetable, but I assure her that we will look at this as a matter of principle and will not be bowed down by vested interests, whether legal or otherwise.

Lord Thomas of Gresford (LD): Following the reference made by the noble Baroness, Lady Deech, to vested interests, I ask: have the Government had representations from solicitors practising in this lucrative area, or from members of the family Bar, to keep fault as an issue in financial provision proceedings? If so, what was the Government's response?

Lord Wolfson of Tredegar (Con): My Lords, I have not had representations from those entities, but I dare say that the department might have done. We get representations, frankly, from all areas of the legal profession, and indeed more broadly, all the time. We will look at this issue on its merits. We have set out that we want to make sure that financial matters are dealt with as amicably as possible. The divorce Act will be a very good start and, as I say, we are encouraging it through family hubs, mediation vouchers and many other ways too.

Baroness Shackleton of Belgravia (Con): My Lords, I speak as a foot soldier operating under the current system. I would like to explore with the Minister the redundancy of the current legislation, which is now 40 years old. Society has changed, as has the way we operate, and the rules are so left to the judge's discretion that there is an industry—I am almost ashamed to practise in it—which fine-tunes, for money, applications for ancillary relief because no one can predict the outcome of such an application accurately. We talk about the mythical mediator, but the mediator has to know what the rules are, because how can they mediate without the rules being clear and explicit? The noble Baroness, Lady Deech, and I—

Noble Lords: Question!

Baroness Shackleton of Belgravia (Con): I would like my noble friend the Minister to be nailed down to a timetable, and I would like to know what that is because—I was going to build up to the question—we are fully welcoming the Act that Parliament has passed facilitating divorce without the end of the financial remedies being sorted. We need a timetable.

Lord Wolfson of Tredegar (Con): My Lords, I am not sure whether my noble friend is a foot solider or somewhere between a major-general and a field marshal in this area of the law. May I gently suggest that perhaps not all lawyers charge by the word? I respectfully say that in this area of law, as in many areas of law, there is a balance to be struck between discretion on the one hand and certainty on the other. You need clear rules, but you also need a judge to have discretion to do the right thing in the individual case. That is what we will be striving for when we look at this area of the law about financial provision on divorce.

Baroness Butler-Sloss (CB): My Lords, as a former foot soldier who tried a very large number of these cases, I believe it is a far more complicated area than either the noble Baroness, Lady Deech, or the noble Baroness, Lady Shackleton, has said to the House. I would be very unhappy with a timetable; the Government ought to get on with it, but they need to take a lot of sensible advice before they put forward proposals. That is my suggestion to the Minister.

Lord Wolfson of Tredegar (Con): My Lords, I am very grateful for that question. Of course, we will take advice from a broad range of stakeholders and others. Indeed, in preparing for today I also looked at the laws in other jurisdictions. Although it is fair to say that, for example, prenuptial agreements are enforceable in Spain, which they generally are not in England and Wales, they are not enforceable if the judge considers that they are detrimental to the children or seriously damaging to one of the spouses. So again, the House will see that that balance of certainty and discretion is so important to try to reach in this area.

Baroness Smith of Basildon (Lab): My Lords, as the noble Baroness, Lady Deech, said when she first proposed this Question, the whole point was to make divorce, by being no fault, less acrimonious and less difficult. The missing part is the financial aspect. In the current system that creates more acrimony and difficulty, especially when children are involved. When the noble and learned Lord, Lord Keen, wrote to the noble Baroness, Lady Deech, he said that such a review would take "two to three years". That plays into what the Minister said just now about how complex and difficult this is, but does that not mean that we ought to make a start as soon as possible? It feels like the ghost of Sir Humphrey is around, with "in the fullness of time", "as resources allow" and "in due course". Nobody is asking the Minister to come up with answers now—only to start the review, which is urgently needed.

Lord Wolfson of Tredegar (Con): My Lords, I hope I have made it clear that we are talking about a matter of weeks once the Act comes into force. We will look at this area very carefully. I know that the previous and current Lord Chancellors are focused on this area. Looking at family law generally, we want to see

[Lord Wolfson of Tredegar]
fewer private family cases before the court and maintain the public family cases before the court. Many private family cases really ought to be resolved out of court, through mediation and in other ways. We will work towards that.

Lord Farmer (Con): My Lords, how have the Government strengthened support for separating couples in preparation for the commencement of this divorce Act on 6 April? In particular, how will they help ex-partners and children cope with the considerable emotion and conflict that being unilaterally divorced will provoke and which might last for years?

Lord Wolfson of Tredegar (Con): My Lords, we of course recognise that divorce can be a stressful time for families. We want to make sure that support is there for separating couples. We have invested in family hubs and the family mediation voucher scheme. We also have a Reducing Parental Conflict programme. However, we also think that the new divorce Act will lead to more amicable divorce and will itself take some of the heat out of the issue.

Baroness Walmsley (LD): My Lords, let us not put the cart before the horse by changing the law before thinking about the most acrimonious part of divorce. Is it not true that a no-fault divorce does not necessarily mean that there was no fault? In which case, is it not all the more important that there is equality of arms between the two people concerned when it comes to mediation on a financial settlement?

Lord Wolfson of Tredegar (Con): My Lords, yes: no-fault divorce means that the question of fault is essentially irrelevant to the fact of the divorce. As to equality of arms, that is where mediation is so useful. Families who participated in the mediation voucher scheme tell us that it really took the heat out of the issue as they could sit down outside a court setting and resolve their issues. For every multi-million pound divorce that you read about in the papers, hundreds—indeed, thousands—of divorces go through without too much acrimony, other than the acrimony perhaps inherent in the fact of being divorced. We want to build on what we think is a movement in the right direction.

Ukrainian Refugees

Question

3.14 pm

Asked by ***Lord Berkeley***

To ask Her Majesty's Government what plans they have to facilitate trains to the United Kingdom for refugees fleeing from Ukraine.

Lord Sharpe of Epsom (Con): My Lords, the Government have focused on ensuring that Ukrainians can access the right legal routes to come to the UK and have no plans to facilitate travel or transport. The Government have put in place a generous humanitarian offer to Ukrainians fleeing the devastating invasion of their country. That includes introducing two new schemes: the Ukrainian family scheme and, for those without family links to UK, the Homes for Ukraine scheme explained by my right honourable friend Michael Gove yesterday. Noble Lords will have received a letter explaining that scheme in some detail.

Lord Berkeley (Lab): I refer noble Lords to my entry in the register. The Minister will be aware that something like 3 million people have now fled Ukraine, mostly to the west, I think. The Prime Minister offered 200,000 people to come here and 4,000, I believe, have already been given visas; that was before Mr Gove's welcome announcement. Does the Minister have any idea how the people are going to get here? On the continent, European Union Governments and the railways are offering free travel anywhere. Some operators are putting on special trains. Will the Government do the same here or are they going to kick everybody out at Calais and make them pay for the joy of coming here through the tunnel or going on a ferry? I hope the Minister has thought this through, because with the numbers coming up it is going to be a major problem that needs planning now.

Lord Sharpe of Epsom (Con): My Lords, I accept the premise of the noble Lord's Question, of course, but I refer him to the fact that we have just witnessed the introduction of my new noble friend Lord Harrington of Watford. He is going to ensure that the measures that are taken are co-ordinated across government, and I am sure that that will be part of his brief.

Lord Hannan of Kingsclere (Con): My Lords, I spent part of last week on the Polish/Ukrainian border and I was very struck by how many volunteers from Poland and the rest of Europe were transporting people to wherever they wanted to go. It was a kind of open-source transport, way better than any Government could have managed because it was all done by volunteers. It was a very humbling and awe-inspiring thing to see. But I was also struck by the fact that very few of the people I spoke to had any plans to come to the United Kingdom. They either wanted to go to where they had friends or relatives or, if they did not, they wanted to stay near the place where they had left their men behind. Will my noble friend the Minister accept that, whatever faults there have been with our Home Office—and I am the first to criticise its lamentable failures—the issue is not one of transportation, which has been laid on amply.

Lord Sharpe of Epsom (Con): My Lords, I thank my noble friend for that contribution. Of course, I agree. A point that has been made consistently throughout this crisis is that people, generally speaking, want to stay as close to their menfolk as possible—and who can blame them for that?

Lord Alton of Liverpool (CB): My Lords, will the noble Lord take the opportunity to pay tribute to the brave Ukrainian train drivers and crew who have evacuated 2 million people since the war began on 24 February, even while their trains, their railway lines and their stations have been bombed by Putin's planes and artillery, intent on destroying refugee routes? Will

he note that two days ago a train leaving Donetsk was bombed, killing the conductor and injuring a woman, and was hit just before it was due to collect 100 children from the nearby railway station to evacuate them? Are the noble Lord and the Government collecting the evidence of such incidents to ensure that those responsible for these war crimes will ultimately be brought to the Hague and tried for the things that they have done?

Lord Sharpe of Epsom (Con): I absolutely agree with my friend, if I may say that: the noble Lord, Lord Alton. The world's Governments are collecting the evidence, as has been made very plain. I salute the courage of all those in Ukraine and, in particular, the train drivers to which he refers. If I may, I would like to stray wildly from this topic and single out another instance of courage: that of the Russian TV producer Marina Ovsyannikova, which the world witnessed yesterday. My thoughts—and I am sure those of all noble Lords—are very much with her, and I am sure that President Putin would like to know that the world is watching.

Lord Dubs (Lab): My Lords, I very much agree with the comment about the Russian TV producer. She is a very brave woman indeed and I hope we will do all we can to try to protect her at this distance. Whatever the mode of travel that refugees fleeing Ukraine use, would it not be better if we facilitated their journey by dropping the visa requirement, as other European countries have done?

Lord Sharpe of Epsom (Con): My Lords, on the subject of visa waivers, the Prime Minister and the Home Secretary have stated on numerous occasions that we will not be issuing blanket visa waivers in response to the crisis. Security and biometric checks are a fundamental part of our visa process in order to keep people in this country safe. This is consistent with our approach to the evacuation of Afghanistan. It is vital to keep British citizens safe and the humanitarian visa process that was announced yesterday will open the doors, but we also need to ensure that we are helping those in genuine need. We are already seeing people presenting false documents and claiming to be Ukrainians. This is a fluid and fast-moving situation.

Baroness Randerson (LD): My Lords, I want to ask for help for Ukrainian refugees once they arrive here. Will the Minister undertake to discuss with the Department for Transport the provision of free travel from the point of arrival to the place where they are going to settle initially? Will he look beyond that to a scheme of free travel for the first month or so, so that those folk can start to sort out their lives once they arrive here?

Lord Sharpe of Epsom (Con): I will certainly commit to have those discussions, but I suggest that my new noble friend Lord Harrington of Watford will be perfectly placed to do that. As noble Lords will know from the letter that was sent by my right honourable friend Michael Gove yesterday, the financial support that will be put in place is very generous.

Baroness Foster of Oxton (Con): My Lords, the noble Lord opposite makes a valid point with regard to rail travel across Europe, but it is difficult to see how the British Government could secure the co-operation of the railway companies in a co-ordinated fashion. Historically, one of the most efficient ways to move refugees has been by air. Our commercial airlines, such as British Airways, have leased aircraft and the RAF has always been key to doing this. Can my noble friend update us or liaise with the Department for Transport and the Foreign Office to see what steps we are taking? If we are moving women and children, and we know that we are going to bring a huge proportion of them to the UK, the safest and most efficient way would be to get them to various airfields and bring them straight to the UK with a relatively short journey.

Lord Sharpe of Epsom (Con): I thank my noble friend for that and of course I commend all those organisations which have already offered support of the sort she describes. I stress that we have had to remind carriers that individuals with a free seat still need the relevant visas. However, my noble friend makes some very welcome suggestions and I will make sure that my noble friend Lord Harrington is apprised of them.

The Lord Bishop of Durham: My Lords, a family is named in Moldova, Romania or Poland and has been sponsored by me or someone else but does not have the money for transportation. If it is all agreed on all sides, will the Government help with transportation?

Lord Sharpe of Epsom (Con): I have just answered a question along those lines, so I am sorry to disappoint the right reverend Prelate, but I cannot agree that at this point. However, the scheme has been in operation for only 24 hours, so let it develop and I am sure these questions will be dealt with.

Lord Harries of Pentregarth (CB): My Lords—

Lord West of Spithead (Lab): I think it is this side.

Lord Ashton of Hyde (Con): I think it is the turn of the Cross Benches.

Lord Harries of Pentregarth (CB): The Statement indicated two stages of the humanitarian visa scheme. The second one concerned the participation of community groups in this country. Is the Minister able to give us any indication of when the details of that scheme will be released?

Lord Sharpe of Epsom (Con): I believe the details will be released this Friday, which I think is 18 March. This scheme was designed in consultation with a large number of NGOs and the like. Yesterday my right honourable friend pointed out some of the names. They include the Refugee Council, the Red Cross, the Sanctuary Foundation and others. I am quite sure that will be in the second phase of the announcement.

Lord West of Spithead (Lab): My Lords, we will get war criminals to The Hague only if we win. The way to win wars is by having strong armed forces. Are we going to put some money into our Armed Forces? Many countries in Europe have realised that they must now do so, particularly Germany, and the Australians have increased theirs by 80%, whereas we seem to be doing nothing about the Armed Forces, who, to me, seem rather important in wars.

Lord Sharpe of Epsom (Con): My Lords, the noble Lord is asking me to stray across departmental briefs, which I am reluctant to do. However, from a personal point of view, I might not disagree with him. I take this opportunity to commend the work of 104 Brigade, which I was reading about this morning. It is involved in theatre sustainment and is currently based in Stuttgart. It is co-ordinating our international military supplies and others.

Scotland Act 2016 (Social Security) (Adult Disability Payment and Child Disability Payment) (Amendment) Regulations 2022

Motion to Approve

3.24 pm

Moved by ***Baroness Stedman-Scott***

That the draft Regulations laid before the House on 24 January be approved. *Considered in Grand Committee on 10 March.*

Baroness Scott of Bybrook (Con): My Lords, on behalf of my noble friend Lady Stedman-Scott, I beg to move the Motion standing in her name on the Order Paper.

Motion agreed.

Early Legal Advice Pilot Scheme Order 2022

Motion to Approve

3.25 pm

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

That the draft Order laid before the House on 19 January be approved.

Relevant document: 29th Report from the Secondary Legislation Scrutiny Committee. Considered in Grand Committee on 10 March.

Motion agreed.

Airports Slot Allocation (Alleviation of Usage Requirements) Regulations 2022

Motion to Approve

3.25 pm

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

That the draft Regulations laid before the House on 24 January be approved.

Relevant document: 29th Report from the Secondary Legislation Scrutiny Committee. Considered in Grand Committee on 10 March.

Motion agreed.

Social Security (Scotland) Act 2018 (Disability Assistance and Information Sharing) (Consequential Provision and Modifications) Order 2022

Motion to Approve

3.26 pm

Moved by ***Lord Offord of Garvel***

That the draft Order laid before the House on 31 January be approved. *Considered in Grand Committee on 10 March.*

Motion agreed.

National Minimum Wage (Amendment) Regulations 2022

Motion to Approve

3.26 pm

Moved by ***Lord Callanan***

That the draft Regulations laid before the House on 31 January be approved. *Considered in Grand Committee on 10 March.*

Baroness Bloomfield of Hinton Waldrist (Con): My Lords, on behalf of my noble friend Lord Callanan, I beg to move the Motion standing in his name on the Order Paper.

Motion agreed.

Commercial Rent (Coronavirus) Bill

Third Reading

3.27 pm

Lord Ashton of Hyde (Con): My Lords, I have it in command from Her Majesty the Queen to acquaint the House that Her Majesty, having been informed of the purport of the Commercial Rent (Coronavirus) Bill, has consented to place Her interest, so far as it is affected by the Bill, at the disposal of Parliament, for the purposes of the Bill.

Schedule 1: Modifications of the Arbitration Act 1996 in relation to arbitrations under this Act

Amendment 1

Moved by ***Lord Grimstone of Boscobel***

1: Schedule 1, page 21, line 19, at end insert—

"(g) in section 74 (immunity of arbitral institutions)—

(i) in subsection (1), for "appoint or nominate" there were substituted "appoint, nominate or remove";

(ii) in subsection (2), for "appointed or nominated", in both places, there were substituted "appointed, nominated or removed"."

Member's explanatory statement

The amendment would ensure that section 74 of the Arbitration Act (which prevents an arbitration body from incurring liability) applies to the function under the Bill of removing an arbitrator on the same basis as it currently applies to the function of appointing an arbitrator.

The Minister of State, Department for Business, Energy and Industrial Strategy and Department for International Trade (Lord Grimstone of Boscobel) (Con): My Lords, it is a pleasure to lead this Bill on Third Reading. As we are all aware, this legislation supports the Government's important aim of mitigating the impacts of the pandemic. The Bill does this by protecting certain rent debt and establishing an arbitration scheme, which has been designed to balance the impact on both landlords and tenants. It has therefore been gratifying to see the level of support for the Bill across the House.

Turning first to the government amendment, I am grateful to the noble Earl, Lord Lytton, and the RICS for sharing their experience and considering the practical applications of the Bill's provisions. I said on Report that I would consider and return to a point about the extent to which arbitration bodies may have immunity. This technical amendment follows that consideration.

Section 74 of the Arbitration Act essentially protects an arbitration body from incurring liability in relation to a function of appointing an arbitrator. Amendment 1 would provide that Section 74 also applies where approved arbitration bodies exercise their function of removal of arbitrators under the grounds listed in the Bill. The bodies will thereby have immunity for things done or omitted in the discharge of this function unless they act in bad faith. I beg to move.

Lord Fox (LD): My Lords, this amendment is testament to the power of remote control over this Bill by the noble Earl, Lord Lytton, and we on this Bench welcome it. I am interested that the Minister was able to announce on Report that a large number of arbitration organisations had already been recruited to take part in this important activity. To that end, I am surprised that they did so without some assurance of immunity as now offered by this amendment; I would be interested to hear what the expectations of those organisations were, given that it is only now that that immunity is emerging. With that small question, we will support the amendment.

Lord Grimstone of Boscobel (Con): My Lords, in answer to the noble Lord, Lord Fox, what I said on Report was that 12 bodies had indicated an interest in applying for this. The process of approval is under way and, no doubt, this clarification will come to light and be welcomed by them during that process.

Amendment 1 agreed.

3.31 pm

Motion

Moved by ***Lord Grimstone of Boscobel***

That the Bill do now pass.

Lord Grimstone of Boscobel (Con): My Lords, I start by thanking noble Lords for their thorough engagement throughout the Bill's passage through your Lordships' House. As ever, the erudite contributions of your Lordships have given rise to constructive and robust discussion of the Bill and it has been pleasing to see the consensus that we have reached as a result. In particular, I thank the noble Baroness, Lady Blake of Leeds, in absentia, supported so admirably by the noble Lord, Lord Lennie, as well as the noble Lord, Lord Fox, as ever, for his support for and scrutiny of the Bill. It has been a pleasure working with them on this Bill following our previous work on the Professional Qualifications Bill. I am also grateful to the noble Earl, Lord Lytton, for his expertise on arbitration. Furthermore, I give thanks to the noble Lords, Lord Lennie, Lord Shipley, Lord Thurlow and Lord Mendelsohn, and my noble friend Lord Hunt of Wirral for their interest in the Bill.

I also thank the noble Lord, Lord Brennan, QC, for his consideration of the Bill. The noble Lord wrote to me recently to discuss the focused eligibility of the scheme, on which I will take a moment to respond. Significant thought has been given to the eligibility of the scheme. It is important to remember that the capacity of the arbitral market is limited and, as such, the scheme that this Bill establishes must be targeted appropriately.

Businesses that were mandated to close were among those hardest hit by the pandemic. Some of these businesses, such as nightclubs, were required to close for over 18 months. Evidence suggests that businesses in the sectors that were mandated to close are the least likely to have reached agreements on outstanding rent. In light of this, we consider it a proportionate requirement that, in order to access the scheme, a business must have been mandated to close its premises, or businesses carried on there, in part or in whole.

I am entirely sympathetic to businesses that were not required to close but were still affected by the pandemic. Alongside the Bill's introduction in the other place, the Government published a revised version of a code of practice for the commercial property sector. This code of practice can be used by any business to help it resolve disputes about unpaid commercial rent, regardless of the business's eligibility to access the arbitration scheme. I hope that this provides some clarity to the noble Lord regarding the purposefully focused eligibility of the scheme.

I recognise that the Government have made several changes to the Bill during its passage through your Lordships' House. I am pleased that the changes have been well received, which is a testament to our shared desire to ensure that this Bill is as clearly drafted and fit for purpose as it can be.

Many of these amendments have been clarificatory or technical—for example, in confirming that an obligation to close either premises or businesses is regarded as a closure requirement—as well as expressly setting out the effect of an arbitral award, including how it affects the liability of the tenant and of a guarantor or former tenant. Minor amendments were also made to Schedules 2 and 3, to clarify the application of certain provisions to former tenants and guarantors, including where an indemnity was given.

However, we have also made more significant amendments, particularly following our extensive interaction with the Welsh Government and in response

[Lord Grimstone of Boscobel]
to the DPRRC's report. I thank the Welsh Government and officials for their positive and extended engagement. I am extremely pleased that the Welsh Government have felt content to recommend legislative consent and that the Senedd has agreed a legislative consent Motion.

Furthermore, I thank the Delegated Powers and Regulatory Reform Committee for scrutinising the Bill and for drawing the House's attention to Clause 28—previously Clause 27—on reapplying the Bill. We have amended the clause to ensure that its power is appropriately limited, following the committee's report. I am grateful for the support which these amendments have received. I am also grateful to the Royal Institute of Chartered Surveyors and to the noble Earl, Lord Lytton, for raising the immunity of arbitration bodies, which prompted the amendment we brought forward today.

I also thank the stakeholders who will be most impacted by the Bill. These include arbitration bodies, and tenant and landlord trade associations. I emphasise, as I have before, that balance, inclusivity and ease of access are some of the core features of this Bill. The Government have engaged with these stakeholders at great length, including at several round tables which I held myself. They have raised relevant concerns and issues, allowing us to mould this legislation and the guidance which my officials are working on—and that we have discussed in previous debates—to make it as useful as possible. As such, I am extremely grateful for their expert input.

I am also grateful to the Bill policy and legal team which has developed this legislation. This includes Carl Creswell, Charles McCall, Jessica Barnaby, Hamza Shoaib, Radhika Sundaram, Matthew Beese, Geraldine Haden, Jane Chelliah-Manning, Justine Antill, Sarah Machen, Louise Dobrin, Simon Burke, Jahan Meeran, Rachel Campbell, Rebecca Denham, Elaine Anderson, Davy Cowie and Martin Gunther. This is a most impressive team.

I thank my private secretary, Ben Kerindi, for organising and managing me—no easy task. I thank the Leader of the House, the Whips and the Office of Parliamentary Counsel, as well as the clerks. Finally, I thank my Whip, my noble friend Lady Bloomfield of Hinton Waldrist.

Lord Lennie (Lab): My Lords, I thank the Minister for his customary courtesy and thoroughness in handling this somewhat uncontentious Bill. In fact, the Bill has been so successful that the hundreds of thousands of cases which were presumed to require arbitration are now down to either the thousands or the hundreds. They are certainly a reduced number and that is a credit to the Bill.

I place on record my appreciation for the contributions of the "Covid 2"—namely my noble friend Lady Blake and the noble Earl, Lord Lytton—who both provided detailed research, experience and commitment during the passage of the Bill, latterly from afar.

Finally, I thank the noble Lord, Lord Fox, in particular for his detailed understanding of the complexity of the Bill. I also thank the Bill team for their work and efforts in getting this Bill in shape. While we still do not know what the term "viable" means and whether there will be a sufficiency to arbitrate, time will tell—time which I have now run out of.

Lord Fox (LD): My Lords, this has been a short process, but an interesting and important Bill. It is important for those businesses which found their entire business model cancelled by something over which they had no control. It is important that we find a way for those businesses to secure their future by sorting out the past. I think the Minister would agree with me that the overriding principle of this Bill has been to ring-fence the debt and then, through an arbitration process, share in the impact of that debt. I am pleased to see that the Minister is nodding as I say that.

The Minister has been sensitive to the advice he has got, and I am very pleased that the Government were able to agree with the Welsh Government on how this Bill would apply in Wales.

There was a period at Report when the number of Bill officials outnumbered the number of Peers two to one. Having heard the list that the Minister has just totted off, I can see that not all of them were there even then—but thanks to the Bill team for the hard work that it put in, and thanks to the Minister and the noble Baroness, Lady Bloomfield, as well as the noble Lord, Lord Lennie, and the noble Baroness, Lady Blake. Because of Covid and dentists, we found ourselves depleted several times during this process, but I also thank my noble friend Lord Shipley—and, back in the Whips' Office, keeping the legislative process on track, Sarah Pughe.

Lord Grimstone of Boscobel (Con): My Lords, I thank noble Lords for their generous input on the Bill throughout its passage through your Lordships' House. It has been a pleasure to lead on a Bill that has seen such wide-ranging support alongside rightful close inspection. I beg to move.

Bill passed and returned to the Commons with amendments.

Elections Bill

Committee (2nd Day)

3.41 pm

Relevant documents: 13th Report from the Constitution Committee, 5th Report from the Joint Committee on Human Rights, 21st Report from the Delegated Powers Committee

Amendment 20

Moved by ***Lord Holmes of Richmond***

20: After Clause 17, insert the following new Clause—

"The role of the Electoral Commission: accessibility of the vote

(1) Within 3 months of the passing of this Act the Electoral Commission must publish a plan to ensure the accessibility and inclusivity of every vote, including—

(a) how such accessibility and inclusivity will be audited and assured,

(b) examples of good practice on the part of returning officers from previous votes in terms of accessibility and inclusivity, and

(c) what action will be taken if such accessibility and inclusivity is found not to have been delivered.

(2) The Electoral Commission may revise the plan from time to time and publish any such revisions.

(3) The Electoral Commission must have regard to the most recently published plan under this section in the exercise of its functions."

Lord Holmes of Richmond (Con): My Lords, it is a pleasure to begin day two of the Elections Bill, and to move Amendment 20 and speak to Amendments 120 and 122 in this first group. I give more than a nod to Amendment 119, but I shall not trespass on it—I shall leave it to the noble Baroness when she rises to speak.

I am grateful to my noble friend Lord True, the Minister, for the time he spent pre-Committee discussing some of the elements around accessibility. He has shown kindness and courtesy and given his time in all the meetings we have had to date. I am also grateful for all the briefing and support we have had, not least from the RNIB.

My three amendments address one simple issue: the accessibility, inclusivity, independence and secrecy of every vote cast. That is simple and straightforward and, I hope, achievable. I shall not give a Second Reading speech, but I shall just give two very brief examples of why I believe we need these amendments. The examples come from the testimony of blind people who, helpfully, got in contact with the RNIB. One person said that when they were voting, the booth was close to the queue and they had to say out loud to the person with them the candidate they wanted to vote for—and they heard from someone in the queue a loud sigh at their choice. Similarly, a second person said that they knew that the person helping them was of a different political persuasion. With the best will in the world, how could they know that that person had voted in the way they had asked them to? That is the purpose of the amendments. As we come to celebrate 150 years of the Ballot Act, the ability of all the electorate, not least blind and visually impaired people, to vote independently and in secret would seem to be something that all noble Lords would want to get behind.

3.45 pm

Amendment 20 concerns the role the Electoral Commission could play. It suggests that within three months of the passage of this legislation, the commission should produce a report on how it will seek to ensure the accessibility and inclusivity of the vote, how that would be audited and assured and, crucially, how examples of good practice could be measured right across the country. In saying that, I pay tribute to the many returning officers who do such good work and really try to do their best, not least in terms of accessibility and inclusion. The amendment also provides for what action the commission would take if such accessibility and inclusivity were not found to be in place.

Turning to Amendment 120, this is where we get to the meat of the change. Current legislation on accessibility is based on the Representation of the People Act 1983. There are three simple statements on the provision of a large-print ballot paper and of a device as prescribed in secondary legislation called a tactile voting device, or TVD. It is simply a plastic grid that covers the ballot paper and allows the blind or partially sighted person to feel where the boxes are and to put their cross in the relevant box. Why do we need to change this system? First, although well intentioned, it has not worked. As noble Lords can imagine, the TVD going over the ballot paper still does not tell me what names are on it. I cannot vote secretly or independently with that system. Indeed, the High Court ruling in 2019 described it as a parody, as it has indeed been.

The relevant clause in the Bill deletes the word "device" and inserts

"such equipment as it is reasonable to provide".

It also deletes the phrase "without assistance". In essence, although this is well intentioned, it doubly weakens the current provision. I am making no great claims for the current provision: we have to look at how we can drive change and, potentially, innovation in this space in order to make the vote inclusive and accessible. However, we must not move from the TVD system to one that could provide even less accessibility. As noble Lords can see, the inclusion of the word "reasonable" could make people subject to a postcode lottery, or to a returning officer lottery in respect of what that officer might consider reasonable.

My Amendment 120 uses the wording of the Representation of the People Act 1983, but simply replaces the phrase "a device" with "equipment". It is a simple amendment but one that will enable innovation and change, so that we are not trapped with the TVD and unable to use modern technology to assist with the vote. Just changing those words enables innovation, without watering down the current accessibility and inclusivity provisions.

Amendment 122 is aligned with Amendment 120, in that it seeks to push innovation and emphasises what technology can do to assist, support, enable and—yes—empower the elector when they cast their vote. At no stage would I suggest that innovation is the complete solution, or indeed the—or even a—silver bullet, but we should at least consider how it can contribute to that solution through enabling greater accessibility and inclusivity.

Amendment 122 asks the department to put out an innovation competition, to get all the fabulous UK SMEs in the technology sector involved and come up with potential solutions to be trialled and set out and which could be proof of concept. This would drive inclusion and accessibility and throw a specific focus on the current difficulty and lack of inclusion and accessibility around the vote. More broadly, doing it in this innovative way would, I hope, raise a wider point across society around the whole question of how we can make not just the public sector and public services but the whole social, economic and human experience more accessible and inclusive.

There are three amendments and one clear purpose: inclusion, accessibility, independence and secrecy. In a 21st-century United Kingdom of liberal, democratic politics, surely it must be possible for everyone to have the opportunity and be empowered to cast their vote accessibly, inclusively, independently and in secret. This must be possible. I beg to move.

Baroness Lister of Burtersett (Lab): My Lords, I support these amendments, so ably introduced by the noble Lord, Lord Holmes. I will speak to Amendments 119 and 120 in particular, but I must first apologise for not having contributed at Second Reading because of a pre-existing engagement.

I am at a genuine loss as to why the Government appear to have dug their heels in against an amendment along the lines of Amendments 119 and 120, with such an amendment being rejected in the Commons. They claim to have been listening to civil society when developing the Bill's provisions, yet it is clear that civil society organisations of and for disabled people, while welcoming the new broader provision in the Bill, are very concerned about the dropping of the specific provision for the effective voting rights of blind and visually impaired people. Examples include the oral evidence to the Public Bill Committee given by the head of policy at Disability Rights UK, evidence to the Public Administration and Constitutional Affairs Committee, and a series of briefings from the RNIB.

No one is disputing the value of having a broader protection to cover disabled people more generally, but why does it have to be either/or rather than both/and—that is, both the more general protection and the specific protection that it has long been recognised blind and visually impaired voters need, albeit updated to be more effective than the existing provision that, as we have already heard, leaves all too many blind and visually impaired voters humiliated when they try to vote independently?

The only argument the Government seem to have is that the kind of specific provision that would be provided in these amendments is, in the words of the Commons Minister in the Public Bill Committee, "needlessly prescriptive" and an "unnecessary obstacle to inclusion". But the RNIB is clear that this is not so. Amendments 119 and 120 both refer to equipment without specifying what that equipment should be. How is that prescriptive? Can the Minister please explain? Prescription is left to secondary legislation, which can easily be amended.

I understand that the RNIB has been working with the Cabinet Office on how to improve voting accessibility and that officials have met with it to discuss concerns about the Bill. The Minister in the Commons confirmed that they had seen the evidence presented by the RNIB but said:

> "We do not expect the outcomes that the RNIB has outlined to necessarily be the case."—[*Official Report*, Commons, Elections Bill Committee, 19/10/21; col. 235.]

Why do the Government believe they know better than those with day-to-day experience of the issues involved? That is not a rhetorical question; I would appreciate an explanation from the Minister. If they do not believe the predicted negative outcomes to "necessarily be the case", the implication is that they accept they might be the case. Surely on the precautionary principle used to justify the introduction of voting identification—which will create its own problems for disabled people, as I am sure we will discuss on Thursday—the Government should listen to the warnings of the RNIB and other disability groups.

In the interests of inclusive citizenship, I hope very much that the Government will think again, accept the spirit of these amendments and bring forward their own amendment on Report.

Lord Kerslake (CB): My Lords, I would like to lend my support for the amendments in this group. Interestingly, the Bill says that its purpose is

> "to strengthen the integrity of the electoral process"

but not its inclusivity. That is a gap that pervades the whole Bill, and we will return to it in subsequent debates.

In this specific instance, there is a significant gap indeed—you have only to read the RNIB briefing to see the extent of it. It identifies the scale of the challenge, with 250 people starting to lose their sight every day, and its serious concerns that the Elections Bill weakens protections for blind and partially sighted voters at polling stations. It seems to me surprising, if not unconscionable, that we will be approving legislation that the RNIB believes weakens protections.

It is doubly concerning given that, as the noble Baroness, Lady Lister, has said, there are plenty of opportunities to improve access through technology. There are pilots that have proven to be successful.

I find it difficult to understand why the Government would resist these amendments, which seek to keep the innovation within the system but maintain the protections. That ought, after all, to be what we seek to do here. If the outcome of this legislation is that those who are blind or partially sighted feel that their opportunities to vote independently and in secret are diminished, and that their protections are diminished, something has gone very badly wrong in our consideration of legislation.

Lord Thomas of Gresford (LD): My Lords, Article 29 of the United Nations Convention on the Rights of Persons with Disabilities mandates all countries to

> "guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others … ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand".

It further emphasises

> "the right of persons with disabilities to vote by secret ballot in elections and public referendums without intimidation … facilitating the use of assistive and new technologies where appropriate."

In November 2018, the European Blind Union published its *Report on the Accessibility of Elections for Blind and Partially Sighted Voters in Europe*, in which it reviewed the provisions of facilities. It looked at the methods of voting in 45 countries in Europe and emphasised the core values of equality, independence and secrecy of the vote, which speakers have already referred to. The report found that

> "paper-based voting in itself is not accessible to most BPS voters. A blind voter is not able to identify different elements on the ballot and independently mark the preferred option or options on the ballot."

As for partially sighted voters,

> "adequate font sizes and contrast values on the ballot as well as magnifying glasses in the voting booth and good lighting conditions"

can help.

Last year, with my limited vision, I could not read anything printed. I could just about read backlit text on a laptop or iPad, but only in reverse-contrast and

with the aid of a magnifying glass. In any event, I could not read election literature—not that I really needed or even wanted to do so. I could have voted, I suppose, with the aid of my wife, the noble Baroness, Lady Walmsley, but could I trust her to put my cross against the Liberal Democrat candidate?

A noble Lord: She is not in her place.

Lord Thomas of Gresford (LD): Thank God. The EBU report is an exhaustive study of the methods used in European countries. In Russia, you can have an assistant to vote in a polling booth; they cannot be a candidate or a member of a political party, surprisingly enough—perhaps the man with the Kalashnikov on the door will suffice. The local election commissions in Russia submit information on the number of BPS voters in the territory and, depending on need, stencils—TVDs—are produced and distributed to some polling stations. It is not difficult, though, if there is only one hole into which you can place your cross.

4 pm

In the United Kingdom, the problem with stencils—TVDs—is that each hole in the plastic screen is marked with a number in Braille, but there is no information as to which candidate the numbered hole refers to, so you have to ask, and there you lose independence and secrecy. In Malta, the constitution demands that an audio device be present, which will play a list of the candidates to the blind or partially sighted voter. In Ireland, there is a free hotline that BPS voters can call on the day of the election for a detailed description of the ballot and of the stencil. The phone number of the election is also the day of the election, so that it is easy to remember.

Seven different solutions are referred to in the EBU report, but I do not intend to discuss them in detail. That is why I believe that the need for a plan, referred to in Amendment 20, and the competition mentioned in Amendment 122, are such good ideas. As the RNIB points out, it has been working with the Cabinet Office, and trials of an audio player used to read out names on the ballot paper, in conjunction with a TVD, were very successful. I think it was tried out somewhere in Norfolk; perhaps the Minister can give us an update on that pilot.

I myself am attracted by the Australian experience, where there have been several federal and regional elections with telephone voting as a specific option for BPS voters. Interested voters call a dedicated phone number to register and receive a unique ID. Then, on voting day, they use the ID to call a call centre anonymously. The call centre operator reads out the ballot and manually records the vote, with a second person supervising the vote. The ballot is then treated as a normal vote.

Finally, I think it should be mandatory for every polling clerk in charge of a voting station to be trained to look after disabled voters—and, in the case of BPS voters particularly, in the use of whatever equipment is provided. As the noble Lord, Lord Holmes, said, what should be provided is not whatever the returning officer or polling clerk thinks is "reasonable"—the word used in the Bill—but whatever is necessary for the BPS voter to be independent in the choice of candidate, and to cast a vote truly on the basis of equality with any other voter and in secret.

Lord Harris of Haringey (Lab): My Lords, I rise very briefly in support of this group of amendments. I will speak briefly as I was not able to participate in the Second Reading debate.

Looking at the Bill in its entirety, it is pretty clear why most of the various elements are contained within it. I hope that the Minister will not find it pejorative if I suggest that this is because they convey an advantage in one particular direction rather than another. I look at the provisions in the Bill for blind and partially sighted people and I wonder, "What is it that blind and partially sighted people have ever done to the Conservative Party?" Because, in its existing form, the Bill reduces and diminishes the rights that blind and partially sighted people have in terms of casting their vote independently and in secret.

So why was that? There are various reasons. It could be that, in an excess of zeal to extend the rights of disabled people more generally, somehow this was a mistake, and they did not intend to take away the rights of blind and partially sighted people but simply wanted to put in an additional, rather than a replacement, provision for disabled people. If so, that is clearly a mistake, and no doubt when the Minister rises, he will say, "Yes, it was a mistake and we're going to correct it".

The other concern may be that, as I understand it, the Government have lost two court cases on precisely this principle: whether they are meeting their existing obligations. So maybe this is about cost. In which case, I hope that the Minister will recognise that to deprive certain categories of people of their vote because it will cost too much to make the necessary provision is inappropriate.

So I hope that the Minister when he responds will recognise that the amendments put forward by the noble Lord, Lord Holmes, are entirely sensible—they remedy what I hope was an accidental change introduced by the Government that would diminish the rights of blind and partially sighted people—and that he will accept them, or one of the other amendments before us today.

Lord Low of Dalston (CB): My Lords, I have here a speech in support of the case which has been deployed already with great eloquence by a number of speakers—I think that we are up to three or four already—so I think that the best service I can perform for the Committee is not to read it out. The argument for amending the Bill to underwrite the case for inclusion and accessibility in the voting process, particularly for blind and partially sighted people and people with disabilities, has been very strongly articulated. That being so, it is incumbent on the Government to take particular note of what has been said and respond to the call for reinforcing the accessibility and inclusiveness of the electoral process, in particular for people with disabilities and people who are blind or partially sighted.

Lord Cormack (Con): My Lords, if an amendment has been tabled by the noble Lord, Lord Blunkett, and my noble friend Lord Holmes of Richmond, moved

[Lord Cormack]
briefly but eloquently by my noble friend, and now endorsed by the noble Lord, Lord Low of Dalston, we do not really need to say any more, do we?

We talk about the expertise of this House. Here we have three of our most respected Members, who themselves have overcome so many of the difficulties of being blind. They can speak with a measure of experience that none of us can begin to emulate. I hope that my noble friend will give a very brief summing up and say, "Yes, we accept what has been said by those who truly know what they're talking about"—and then we will move on.

Baroness Jones of Moulsecoomb (GP): We do not really need to say much more, but I think I might try. I want to add a little layer of shame if I possibly can. I would like to know from the Minister why the Government are denying democracy to a section of society. That is exactly what is happening here. If blind and partially sighted people cannot see to vote properly or cannot vote in privacy, that is denying them democracy. My question, first, is: why? Secondly, why did the Government not put something like this in the Bill anyway? We have an ageing population—this section of society is going to get much bigger—so it is absolutely necessary.

The last thing I will say is that, if the Government insist on bringing forward these awful Bills, we will insist on trying to amend them. It is down to the Government. If they do not want to listen to us, they should bring us better Bills.

Lord Scriven (LD): My Lords, it is slightly disappointing that the Committee is having to debate this issue in this way. Will the Government listen? This is not a party-political issue; it is an central issue that is vital for all, so that all are afforded a secret, independent vote that is accessible and inclusive. It is interesting that a number of noble Lords, such as the noble Lords, Lord Holmes and Lord Low, and my noble friend Lord Thomas have spoken about their experiences. That is more important to listen to than issues to do with what a returning officer might or might not see as reasonable.

We on these Benches support the amendments, particularly Amendments 20 and 119, because they are about providing a prescribed piece of equipment across the country. It does not matter whether you are in Southend, Sheffield or Sunderland: there should be prescribed equipment, as now, that leads to independent, accessible and inclusive voting.

The impact assessment that the Government have provided points out that the Electoral Commission will provide a list, but it goes on to say that returning officers do not have to buy from that list. We could be left with a situation where some returning officers—I hope not many—see it as reasonable not to provide equipment, and there would be a legal argument that it was not reasonable to provide any extra equipment.

It is really important that there is something about prescription in the Bill. As other noble Lords have said, that could be written into secondary legislation. Amendment 122 from the noble Lord, Lord Holmes, is really innovative because different equipment will be needed as technology moves on, but the fact that it is prescribed means that it can be changed quite easily in secondary legislation and then prescribed for every polling station across the country.

I ask the Minister, first: what would prevent it being seen as reasonable for no equipment to be required in a polling station? Would that be deemed illegal in the way the Bill is written? Secondly, if you are partially sighted or blind, what would the difference be, whether you vote in Southend, Sheffield or Sunderland, in having different equipment? It should be prescribed, it should be the best and it should be on the recommendations of civil society, in consultation with the independent Electoral Commission, to determine what is required.

Baroness Hayman of Ullock (Lab): My Lords, this has certainly been an important debate. I thank the noble Lord, Lord Holmes, for his extremely comprehensive introduction to his amendments. It is really important to this debate for those of us who are not blind or partially sighted to hear exactly what the situation is for some noble Lords. We on these Benches are very happy to support his amendments. I also thank the RNIB for its time in meeting me to discuss the situation and for its very helpful briefings. The noble Lord also mentioned the RNIB's work on this.

I tabled my amendment because the Bill provides an opportunity to make some much-needed improvements so that voting is more accessible for everyone. Although that is the stated intention in the Bill, the RNIB and blind and partially sighted Members of this House have raised concerns, as we have heard, that the wording in the proposed legislation is inadvertently—we hope it is inadvertent—reducing the legal protections for blind and partially sighted people.

4.15 pm

In support of my amendment, I draw the Committee's attention to much of the evidence provided by the RNIB. It is very important that the Government listen and get this right, so I will spend a little time on this, if noble Lords will indulge me. Currently, the Representation of the People Act 1983 says:

"The returning officer shall also provide each polling station with—

(a) at least one large version of the ballot paper which shall be displayed inside the polling station for the assistance of voters who are partially-sighted; and

(b) a device of such description as may be prescribed for enabling voters who are blind or partially-sighted to vote without any need for assistance from the presiding officer or any companion".

The Bill replaces paragraph (b) with:

"such equipment as it is reasonable to provide for the purposes of enabling, or making it easier for, relevant persons to vote".

The word "reasonable" has been challenged by a number of noble Lords, so I ask the Minister to take note of that and take it back with him.

This clearly weakens the guarantees for blind and partially sighted people. The noble Lord, Lord Kerslake, referred to the importance of integrity and the fact that he believes that there is a gap in the Bill, particularly in this area. As he said, why would we approve legislation that the RNIB believes will weaken the current system? The RNIB says that it will weaken it in three specific ways.

Individual returning officers, instead of the Government, will now make the decision as to what to provide, creating a postcode lottery of provision. This will introduce uncertainty and anxiety among blind and partially sighted voters, as they will not know what to expect at polling stations or what they are entitled to. The introduction of the word "reasonable" means that a returning officer could decide that they do not think that the provision of a tactile voting device, or other such equipment to enable an independent vote, is reasonable. In addition, the loss of the words

"without any need for assistance"

means that there is less clarity that the right to an independent and therefore secret vote is afforded to blind and partially sighted people, as it should be to any voter under the principles established by the Ballot Act of 150 years ago. The noble Lord, Lord Holmes, referred to that important Act.

Looking at the Explanatory Notes and additional evidence from the Government, it seems that this change has been proposed to achieve a number of things: to address a concern that as the tactile voting template is prescribed in law it is difficult to change and likely to become outdated; to address a concern that the tactile voting device does not always work; to ensure that voters with other disabilities also receive the adaptations they require; and to allow for innovation to support disabled voters—the noble Lord, Lord Holmes, has come up with a cracking idea on how we can encourage innovation. But the tactile voting device is not prescribed in statute; the legislation instead makes reference to

"a device of such description as may be prescribed".

It is prescribed in regulations and as such should be relatively simple to update in the light of technological developments, so I ask the Minister: does he believe that removing this protection is proportionate, based on the impact that it would have on blind and partially sighted voters?

I appreciate that the tactile voting device alone does not always work as a method to ensure an independent vote, and noble Lords who have had experience of using it have explained the concerns, but I also understand that, as has been mentioned, the RNIB has been collaborating with the Cabinet Office on alternative solutions.

A method whereby blind and partially sighted voters were given an audio player alongside the tactile voting device to read out the names on the ballot paper, meaning that there was no need for an assistant or presiding officer to help by reading out the names of the candidates, was trialled at polling stations in Norfolk in the May 2021 elections. Satisfaction rates among those who used it—a small sample because of the scope of the trial—were 91%, compared with 39% among blind and partially sighted voters across the rest of the country who had access to the tactile voting device alone.

Can the Minister explain why plans to introduce this new system more widely have been shelved? My noble friend Lord Harris of Haringey talked about how the proposals reduce and diminish the rights of blind and partially sighted people to vote independently and secretly. He asked whether this was a mistake which would be corrected, but considering that the new system had plans which were shelved, can I come back to his other question: is this about cost? I am interested to hear what the Minister has to say. It would be good if he could give assurances that the new system, which seemed to work so well in Norfolk, was not shelved because of cost.

Whether the trialled solution of an audio player used with a tactile voting device is eventually adopted, or another solution is brought in, it is essential, as the noble Lord, Lord Scriven, said, that a minimum standard of equipment uniformly available in every polling station must be supplied to ensure that blind and partially sighted people can exercise their right to vote in secret. However, as we have heard, in the revised wording proposed, an individual returning officer could decide that this is not reasonable. This is not the way forward. Any solution must be at a national level. I have heard from the RNIB that voters are frequently told that a tactile voting device is not available. Moving the decision regarding what adaptations to provide to returning officer level results in a patchwork of provision. It will damage the ability of blind and partially sighted people to vote independently.

The noble Baroness, Lady Jones of Moulsecoomb, made the important point that we have an ageing population. This is more likely to be needed as we go forward in time, and this Bill gives the opportunity to do something about it. The RNIB believes that concerns about the rigidity of wording and improving accessibility of voting for other disabled people could also be addressed with a very small change. The amendments tabled by the noble Lord, Lord Holmes, did not reference only blind and partially sighted people. We were looking more broadly across support for all disabled people. As we have heard, equipment must be supplied. No matter a person's disability, they need the equipment to ensure that they can vote independently and secretly, and in a way that is properly accessible.

We also think that the changes that have been suggested by the RNIB allow for innovation for all disabled voters. Even under the current legislation, with a prescribed solution that sets out a minimum standard on provision, the Cabinet Office was able to provide additional advice to returning officers ahead of the elections in December 2019, clarifying that they may wish to permit blind or partially sighted voters to use magnifiers or mobile phone apps to assist in voting, as a reasonable adjustment under the Equality Act. As such, there is no restriction in law on local innovation by returning officers beyond the minimum standard to support disabled voters. Indeed, the Equality Act already obliges them to make reasonable adjustments for all disabled people. The noble Lord, Lord Thomas of Gresford, talked about the United Nations conventions protections and the difficulties of his own experience, and brought in comparisons with international alternatives. There are plenty of tried and tested ways to look at this.

The Public Administration and Constitutional Affairs Committee also expressed concerns about the impact of some of the proposals in the Elections Bill on people with complex disabilities. The committee rightly draws attention to people with complex disabilities who already face barriers while exercising their democratic

[Baroness Hayman of Ullock]
right to vote. The lack of accessible information about elections and candidates, the inaccessibility of the voting process, and often the buildings used, as well as public attitudes and understanding, all present barriers.

My noble friend Lady Lister looked at the evidence from the committee and rightly asked why on earth the Government are digging their heels in on this. The Elections Bill presents an opportunity to make it easier for disabled people to vote and the committee agrees. We have heard today of some of the barriers that have been in place. We also know that a survey carried out for the committee's report found that 5% of disabled people said it was hard for them to actually get into the polling station; in contrast, no non-disabled respondents said it was hard for them, so there is clearly a huge issue here.

The Electoral Commission has also been calling on the Government to make voting more accessible for all. The evidence provided on sight loss in its 2018 report reflected that sight loss creates an issue for electors in both polling stations and their home environment. The main response relating to people with sight loss came jointly from the RNIB and the Thomas Pocklington Trust. Their evidence began with statistics which reflected responses to a survey at the 2015 general election, where 45% of respondents disagreed with the proposition that the current system allowed them to vote without assistance and in person, with a further 29% saying that was only partially the case. Only 4% felt that no change was needed, and 54% said that telephone, electronic and online voting should be considered.

In conclusion, this Bill is a huge opportunity to make these positive changes. I am sure the Minister would wish to make voting a straightforward and positive experience for all citizens. As the noble Lord, Lord Holmes, said, why not look at a competition on innovation? That is a fantastic idea. As the noble Lord, Lord Low of Dalston, said, the case has been strongly articulated so it is incumbent on the Government to take note of what noble Lords have been saying. Finally, as the noble Lord, Lord Cormack, said, we have heard from respected Members in this House today who are partially sighted or blind, so the Minister needs to take note of what they have said.

The Minister of State, Cabinet Office (Lord True) (Con): My Lords, I thank all those who have spoken in what has been a very welcome debate. I am sorry to disappoint those who wish to characterise the Government as hard-faced on this matter. I hope I will be able to convince your Lordships of quite the reverse; we are interested in further conversations.

These amendments, which I agree were very ably introduced by my noble friend Lord Holmes and spoken to by others including the noble Baroness, Lady Hayman, relate to the accessibility of elections for people with disabilities and the measures in the Bill aimed at improving this. We accept the principles put forward I thought so cogently by my noble friend Lord Holmes—inclusion, accessibility, independence and secrecy. Those are things that all of us would wish to strive for. As the noble Baroness and others recognised, not all of those are currently catered for.

I wish to highlight that the measures introduced by the Bill actually respond to findings from our 2017 call for evidence *Access to Elections* which raised concerns that the prescription of assistive devices in law can be an obstacle to innovation and wider inclusion. The Government are clear, as I think was also widely agreed in the debate, that a one-size-fits-all approach cannot ensure that appropriate support is delivered by returning officers to all disabled voters, whether they are blind and partially sighted or have a different disability. It is for this reason that we consider it absolutely necessary that we make provision to extend support to wider groups of disabled voters. I am pleased that the spirit of the amendments broadly agrees with this principle and the ultimate goal of making elections more accessible for all people with disabilities. Contrary to the assertion made by the noble Lord, Lord Harris, that is our objective.

Two of these amendments, those from my noble friend Lord Holmes and the noble Baroness, Lady Hayman, would require the Government to prescribe in law equipment or a set of equipment for blind and partially sighted voters, in addition to widening support to other disabilities. I listened carefully to what they have to say and will continue to do so. The Government have engaged positively with the RNIB. I assure the House that my colleagues in DLUHC continue to engage with it regularly, and it remains a crucial part of the Accessibility of Elections Working Group. It expressed concern that the approach taken in the Bill might result in a loss of protection for blind and partially sighted voters, but I emphasise that this should not and will not be the case under the approach we propose. This protection will remain, but the form in which it is provided will be improved and allow for more and better solutions to be developed.

4.30 pm

As I noted, and as other noble Lords alluded to, our experience of providing specific assistive equipment in law over the past two decades is that it can become an obstacle to innovation and wider inclusion. Turning to a question asked by several Members—including the noble Lord, Lord Thomas of Gresford, who for a second time has spoken eloquently and cogently on this issue from his personal experience—the testing of TVD was carried out in Norfolk last year. Participation was limited, as the noble Baroness pointed out, but it was positive overall in the limited sample. It did, however, show that audio is the right solution for some people but not all. Under the new measures, the right support should be that audio or something else should be provided, based on people's needs. That is our hope.

Turning to the issue of cost, the question was asked, "Are you doing this because you don't want to pay?" No: as is usual for programmes of this kind, the Government will meet the cost of the new burdens that flow from the implementation of the Bill's policy measures, in line with long-standing government policy. Rollout of any funding will be timed to ensure that local authorities can meet the costs incurred.

Lord Harris of Haringey (Lab): I do not want to interrupt the Minister while he is in full flow, but his description of the way money flows to local authorities

applies to a new provision. This is removing an existing provision: that is the distinction. Why are the Government removing a provision? Is it because they lost two court cases and were told they should be doing more?

Lord True (Con): No, my Lords; the reality is that the current position is confined and the Government are seeking to move to a future where a range of assistance is available. Again, in my submission, the noble Lord does not characterise the position correctly. As for his allusion to court cases, everybody who has some knowledge of these proceedings knows very well that there was a court case in 2019, which is a matter that the Government must address and are addressing.

Lord Scriven (LD): I must press the Minister here. Following on from what the noble Lord, Lord Harris, said, the impact assessment is very clear. Under this policy, there are no direct costs because returning officers

"will be able to buy the equipment they think best"

suits

"those with disabilities … by removing the requirement to buy a specific device."

That is what the impact assessment says. There is no extra money: money will be moved from the prescribed equipment to what the returning officer sees fit.

Lord True: My Lords, we are seeking to move to a better, more flexible and more complete approach for blind and partially sighted people, and others. I repeat what I said to the House: if new burdens flow from these proposals, long-standing government policy will apply. We have heard, not from the Government at this Dispatch Box but from others who have spoken, that the specific equipment available today does not suit every circumstance. It is reasonable, therefore, to engage in the kind of open discussion we are having, and which I welcome. If I am allowed to make progress, I will say a little more about what the Government hope to do.

Baroness Hayman of Ullock (Lab): My question was really about the cost of the system trialled in Norfolk and whether the problem was that it was prohibitive. My understanding was that it would be spread out nationally, and I wanted to know why that did not happen and whether cost was an element.

Lord True (Con): I do not believe that was the case but I am not briefed on the specific point. I will of course give the noble Baroness an answer on that.

There are many things in the Bill on which we disagree, and I am conscious that there will be hard and difficult debates with the Government, and I will be very much in the dock on a number of things. I understand the suspicions and concerns that have been raised, but I beg to persuade the House, not only today in Committee but in further conversations I hope to have with noble Lords, that the Government's earnest here is not to confine but to extend what is available to disabled people and to blind and partially sighted people.

The amendments as drafted would be prescriptive and would provide for specific equipment to be legally required in over 40,000 polling stations across the United Kingdom. This might ossify the position on equipment provided and could take away the opportunity to provide equipment that people want and need, which is the aim of the more tailored approach introduced by these measures.

Additionally, it is important to be mindful that, as my noble friend Lord Holmes reminded us in opening, being able to "vote without any need for assistance" can mean different things to different people, as the act of voting could be seen to include various actions, from knowing the candidates to marking the ballot or placing the vote in the ballot box. Identifying a device or combination of devices that would enable every single blind and partially sighted person to complete every step in the voting process securely and without assistance would be hard.

The Government are absolutely clear that we do not want the changes to be a postcode lottery of support. The new requirements—this is important, and I note the amendments put forward by my noble friend—will be supported by Electoral Commission guidance. That will be developed in conjunction with expert organisations representing a wide range of disabled people and will provide a clear and consistent framework for returning officers to follow. The Electoral Commission will also include this in its performance standards for returning officers to ensure accountability in the delivery of the new policy.

Lord Scriven (LD): Clearly, the Minister has not read the impact assessment. It makes it clear that the list will be provided but says:

"nor is there a requirement for"

returning officers

"to choose from this list specifically."

Therefore, the list is not a guarantee of a minimum standard across the country.

Lord True (Con): My Lords, I have said that the Government anticipate a very important role for the Electoral Commission. During our first day in Committee —a long day, which I welcomed—your Lordships expressed profound respect, which I share, for the Electoral Commission. I suggest that the role there should be for the commission in overseeing the development of this important aspect of policy should give your Lordships rather more faith in the future than the noble Lord, Lord Scriven, seems to have.

Lord Scriven (LD): It is not the Electoral Commission but the Government's own impact assessment which says that the returning officers do not have to buy from the list which will be provided by the commission. This is a government impact assessment and nothing to do with the Electoral Commission.

Lord True (Con): My Lords, the Government's desire and wish is that all people who wish to vote and have voting accessible to them will have the best provision that fits them individually. I note, if I may continue, that the amendment tabled by my noble friend Lord Holmes relates precisely to this point of the support that the Electoral Commission will provide for the policy. As I have said, the Government are working very closely with the commission in this area and we

[Lord True]
are confident that it will be able to support the policy in a way that benefits all disabled people. That said, I am therefore sympathetic to the desire behind my noble friend's amendment. Having heard what other noble Lords said, I would welcome further discussion, with a view to coming to a shared position on the role of the commission during the Bill's passage.

Finally, Amendment 122 would require the Government to conduct a competition to identify technological solutions to support disabled voters. As the noble Lord, Lord Thomas of Gresford, said, this is a challenging and interesting idea. I would say that this is absolutely in the spirit of the policy. We want to promote innovation and development in this area—something that has been all too lacking in recent years. Although it is not something we would instinctively want to require legislatively, a tranche of measures will support the ongoing implementation of the policy. I remain open to further discussions in this space also.

In conclusion, I have welcomed the debate and, as I have noted, we share a joint aim to improve the accessibility of elections. Therefore, I look forward to continued discussion on how best this might be done. For the reasons outlined earlier, we cannot keep the specific prescribed equipment we have now in legislation—nor would we want to do this, as it is not the best way to support all disabled voters—but we recognise the concerns raised and the sentiments behind the amendment and I remain open to conversations between now and Report. With that undertaking, I hope my noble friend will feel able to withdraw his amendment.

Lord Holmes of Richmond (Con): My Lords, I thank all noble Lords who participated in this afternoon's debate. It is invidious to single out any noble Lord in particular, but in the contribution of the noble Lord, Lord Thomas of Gresford, we got a very helpful and detailed insight into some international comparators, which I hope my noble friend the Minister will find helpful as we go for further discussions and deliberations on this point.

There is something I should have mentioned at the start: in my excitement to get started I should have given my apologies for not having been able to speak at Second Reading due to a prior meeting. Also, at least as importantly, I should have paid my respects to the noble Lord, Lord Blunkett, who kindly supported my amendment and is unable to be here in Committee due to a private engagement speaking to several groups of schoolchildren, which he is so brilliant at doing.

I say nothing on the cost point, but it seems pertinent to raise a universal principle to put on the record at this stage: if something, be it a product, a system or a process, is designed from the outset to be inclusive by design, generally there will be no additional cost incurred. Things become tricky only when we get into a situation of retrofit, trying to make good, trying to make inclusive post event. I just put that universal principle on the record. I am extremely grateful to my noble friend the Minister for his considered response, I look forward to further discussions between now and Report and certainly to returning to this issue on Report. With that, I beg leave to withdraw the amendment.

Amendment 20 withdrawn.

Clause 18: Notional expenditure: use of property etc on behalf of candidates and others

Amendments 21 to 24

Moved by ***Lord True***

21: Clause 18, page 28, line 7, after "(1)(b)," insert "except as it applies in relation to a local government election in Scotland or Wales,"

Member's explanatory statement

This amendment confines the effect of inserted subsection (1A) for section 90C of the Representation of the People Act 1983, so that it does not apply in relation to local government elections in Scotland or Wales.

22: Clause 18, page 28, line 13, after "(1)(b)," insert "as it applies for the purposes of a period in relation to which any limit is imposed by paragraph 3, 7, 9, 10 or 11 of Schedule 9 (periods involving parliamentary general elections or general elections to the Northern Ireland Assembly),"

Member's explanatory statement

This amendment confines the effect of inserted subsection (1A) for section 73 of the Political Parties, Elections and Referendums Act 2000 ("PPERA"), so that it applies only for the purposes of campaign expenditure incurred during a period involving a parliamentary general election or a general election to the Northern Ireland Assembly.

23: Clause 18, page 28, line 23, after "(1)(b)," insert "as it applies for the purposes of a period in relation to which any limit is imposed by paragraph 3, 7, 9, 10 or 11 of Schedule 10 (periods involving parliamentary general elections or general elections to the Northern Ireland Assembly),"

Member's explanatory statement

This amendment confines the effect of the inserted subsection (1A) for section 86 of PPERA, so that it applies only for the purposes of controlled expenditure incurred during a period involving a parliamentary general election or a general election to the Northern Ireland Assembly.

24: Clause 18, page 28, line 30, leave out from "(8A)" to "only" in line 31 and insert "Where the period is one in relation to which any limit is imposed by paragraph 3, 7, 9, 10 or 11 of Schedule 10 (periods involving parliamentary general elections or general elections to the Northern Ireland Assembly), property, services or facilities are made use of on behalf of a third party for the purposes of subsection (8)(b)"

Member's explanatory statement

This amendment confines the effect of the inserted subsection (8A) for section 94 of PPERA, so that it applies only for the purposes of controlled expenditure incurred during a period involving a parliamentary general election or a general election to the Northern Ireland Assembly.

Amendments 21 to 24 agreed.

4.45 pm

Amendment 24A

Moved by ***Lord Collins of Highbury***

24A: Clause 18, page 29, line 15, at end insert—

"(8) The Secretary of State must by regulations define "encouraged" for the purposes of this section within the period of 12 months beginning with the day on which this Act is passed."

Member's explanatory statement

This amendment probes the use of the term "encouraged".

Lord Collins of Highbury (Lab): My Lords, I am taking the unusual step of trying to get a debate going about a particular word. It may not last long but, knowing my ability, I suspect it will go on for a bit longer than people perhaps anticipate.

I raised this previously, on the first day in Committee: what is the problem that we are examining here, and what is the solution that this clause seeks to offer to that problem? It is not clear to me that we are providing a solution. No doubt the noble Lord, Lord Wallace, will seek to raise some of these broader issues in his clause stand part debate. One of the things suggested is that it is about changing a legal test in the notional spending provisions, which I know are an essential part of election spending controls.

When I first started working in Transport House in 1972, the Labour Party was fully occupied in Transport House. General election campaigns were run from that building and, even after the Labour Party left Transport House and moved to the Walworth Road, it still used the facilities we had in Transport House to conduct the national campaign. Of course, that was prior to some of the regulations about how we account for funding and spending.

This is really quite an important issue. In its briefing, the Electoral Commission points out that in the 2019 general election, notional spending accounted for 40% of the total campaign spend across all candidates, so it is a huge issue that we need to make sure we get right. The Electoral Commission says it is really important that candidates need to be clear when something is notional spending, because it counts towards their total campaign spend and they must not exceed it.

The Explanatory Notes for the Bill say:

"Clause 18 subsection (1) (notional expenditure: use of property etc. on behalf of candidates and others) amends section 90C of the RPA 1983 in order to clarify that 'on behalf of' means where the candidate has directed, authorised or encouraged that use by someone else. This will clarify that candidates only need to report benefits in kind which they have actually used, or directed or encouraged someone else to use and do not need to fear being responsible for benefits in kind of which they had no knowledge."

I have heard the Minister stress that the Bill's purpose is to better define things, make sure that they are better understood and make sure that, if there are any loopholes, they are closed. I tabled this probing amendment to ask exactly what "encouraged" means. How are we to define that? How will that be translated into codes and guidance that the Electoral Commission puts forward?

I have a concern, and I hope the Minister will spend some time explaining this. What is the problem? Are we properly accounting for all notional spend? To me, that is the problem that this clause should address. If the Electoral Commission is telling us that it is 40% of the spend, we need to make absolutely sure that it is properly accounted for.

My fear is that this Bill is not doing that and could lead to claims of, "I didn't know—I had no knowledge, even though my campaign people were using an office or a car. I didn't know that shop down the road was open for me to use." There are issues of serious concern here. What is wrong with the existing provisions on notional spend? I would ask the Minister to describe the problems, give us the evidence of where problems have occurred and then tell us how this clause solves those problems.

I have tabled this specific probing amendment and I have no doubt that I will repeat some of these concerns when we get to the clause stand part debate. It is incumbent on the Minister to be absolutely clear on this issue. The Electoral Commission says in its briefing that this needs to be tightened up and people's responsibilities made clear, but then I read in the Explanatory Notes that we want to ensure that candidates need not fear being responsible for benefits in kind of which they have no knowledge. I do not like the idea that ignorance is a defence, yet that is where this clause may be leading. I ask the Minister to tell us what "encourage" means, but also to give us a better explanation of the problem and the solution that this clause attempts to provide.

Lord Stunell (LD): My Lords, I rise to ask some questions very much in parallel with those the noble Lord, Lord Collins, posed to the Minister. The word "encourage" is difficult to define in the legal sense. Is he prepared to share the advice that he has received from counsel about how a court might interpret "encourage" if an offence came before it? The noble Lord, Lord Collins, has illustrated that "encourage" is one thing and "ignorance of" another, but there is a tremendous zone in between, which will be an interesting legal minefield.

I would have thought that, in introducing this proposition in the Bill and to the Committee, the Minister would have in mind creating certainty, not a minefield through which agents, candidates and, for that matter, national parties have to step lightly to make sure that they do not offend and offend again. Speaking as a former candidate and a former agent, I never had any doubt about the distinction between things given to me by my party or anybody else for use in the election, and things that happened as a result of circumstances. Of course, we will come to third-party spending as a separate item later.

Although it has not been clearly expressed as such in the debate on this group of amendments, the specific reason for this clause being here at all is a legal case, which, from the perspective of the Conservative Party, went wrong. The party is seeking to change things so this does not go wrong next time; we will address the sense, or not, of that when we get to the next item for debate. However, even granted that it is a sensible inclusion in the Bill, would it not be rather more sensible to have an inclusion that does not lead to further ambiguity, doubt and difficulty, which will simply tie up agents, candidates and national party agents in trying to work out what "encourage" means or where the boundary of "encourage" lies?

I find it quite hard to understand the situation whereby a coach of activists can turn up and help you for a week and you could not be said to have encouraged it to happen. You may not have ordered them to come—but was any evidence presented that the local party officials at the time rejected it, but the national party insisted that these people came over their dead bodies? Where does "encourage" take us with that? Does "encourage" have a legal definition? We are familiar with other terms, which are used in perhaps somewhat similar circumstances, such as "facilitating". Clearly, that is one way of looking at it. If they say, "Mrs Buggins will put somebody up for the night", is that facilitating or encouraging?

There are many difficulties in the wording of this provision, quite apart from the outstanding difficulties with the clause as a whole, which we shall come to in a

[Lord Stunell]
few minutes' time. I hope the Minister will share with us the advice that he has had from legal counsel about how courts would interpret "encourage". I am sure that the courts will come to a common-sense view, based on their understanding of UK language and legislation and any kind of previous case that they can draw into it, but a common-sense understanding of what "encourage" means may not be sufficient. At this point, I want to hear how the Minister imagines it will be interpreted by the courts when the inevitable cases come, via the Electoral Commission, the police or whatever mechanism is going to be permitted under this Bill for any offences to be prosecuted—we have dealt with that subject already. Assuming that cases will be taken forward, how does the Minister expect the courts to interpret "encourage"? What kind of evidence would show that encouragement took place or, alternatively, what kind of evidence could a candidate or an agent produce to show that they did not encourage? Would they have to produce some emails, perhaps, to show that they pleaded with headquarters not to send the money, help, leaflets or a coachload of young people?

The Minister can get the drift of the question that the noble Lord, Lord Collins, is asking, and which is important to understand, so that we get some measure of what this provision might achieve and what it might very well not achieve, despite the Minister's intentions.

Lord Grocott (Lab): My Lords, I agree very much with what has been said by both my noble friend Lord Collins and the noble Lord, Lord Stunell, who bring a tremendous amount of experience to this matter. I cannot quite match the noble Lord's experience. I have fought sundry elections at parish, district, county and parliamentary level over the years, but by a bit of fancy footwork I have always avoided becoming an election agent. It has always struck me as the most frightening job in connection with elections.

That brings me to my observation on these amendments —that above all else one needs clarity and simplicity in this area to make the job of being an election agent less onerous and forbidding than it is at present. When we have these kinds of discussions, I often think that there is an assumption somewhere, although I cannot locate where it comes from, that there is a queue of people with tremendous experience who are dead keen to become election agents. My experience is the opposite: as a candidate you pretty well have to beg some friend of long standing to take on the responsibility, because it is a huge responsibility.

It is incumbent on us, as legislators, to make any law in this area as simple, straightforward and unambiguous as possible. That seems to be the objective behind what my noble friend is proposing. I share his concern and anxiety, particularly about the word "encouraged", which has been developed by the noble Lord, Lord Stunell. There is nothing I would add to that, other than to say: for goodness' sake, keep the poor election agent in mind throughout this kind of discussion, because—my word—they have a heavy burden to carry.

5 pm

Lord Sentamu (CB): My Lords, I share the sentiment of what the noble Lord, Lord Grocott, has just said. The noble Lord, Lord Collins, is right to seek clarification of what "encouraged" means. However, why is the role given to the Secretary of State, and not the legislation itself, to define it? If we cannot define it, kick it out. Why should this responsibility be given to the Secretary of State, who "must by regulations define" what it means? It is a bit late in the day for that.

I also share the concern of the noble Lord, Lord Stunell, about how courts will define what "encouraged" means. I have a problem with it being defined by the Secretary of State "by regulations". I am one of those who is always very suspicious of legislation, in a secondary way, allowing regulations to grow like Topsy as has been the case over the last so many years. The legislators are allowing it to go ahead. I would have thought that the Bill itself should define what it is. If it cannot define it, do not put it in.

After listening to noble Lords who defined what election agents do and their enthusiasm for the things that they do, I am glad that I could never be such a person, because I do not think that I am worthy of it.

I ask the Minister—because the Government have drafted the legislation and put it into the Bill—to explain to us what he means by "encouraged". Will it stand up to the standards of the law courts? If it cannot, why is it not just taken out?

Lord Wallace of Saltaire (LD): My Lords, I am often grateful I was never an election agent. I fought five elections and was once approached and asked if I would work as an agent for an early election. I am eternally grateful that I did not accept, because I did not begin to understand the complications and responsibilities of the task then. I have learned some of them since, but life has got a great deal more complicated over the last 50 or 60 years as the technology of elections and the power of the national parties, compared with the local parties, have shifted quite radically.

When I read this clause, I was struck by the word "only", which appears repeatedly. That was the word I wanted to challenge. For example, it says that

"facilities are made use of on behalf of a candidate only if their use on behalf of the candidate is directed".

Why does "only" keep recurring in various different contexts? It is clearly intended to weaken the possibility that the candidate could, in any way, be regarded as responsible. That worries me. Any good lawyer would be able to unpick the candidate being responsible under most circumstances for what the national party had done within his or her constituency. We well know, from the case to which this clause relates, that the national parties as a whole have come to engage in specific constituencies to target them and to spend a great deal of money from the national level in them. I suspect that candidates are always aware of this, but they may not always have wished to encourage it.

Lord True (Con): My Lords, I am grateful for this short debate. I will not enter into the discussions of election experiences, but I certainly agree with the noble Lord, Lord Grocott, that it is not always easy to find election agents. Anyone who has been involved in politics is mindful of the difficulties which sometimes arise in the course of elections.

What we are seeking to do in Clause 18—I will come on to "encouraged", which has been suggested goes in the opposite direction—is to clarify the law on notional expenditure. A debate on Clause 18 stand part will follow this debate and it is probably the appropriate place for this. It makes it clear that candidates need to report only benefits in kind: property, goods, services and facilities provided for the use or benefit of a candidate at a discount or free which the candidate has used or which the candidate or their election agent has directed, authorised or encouraged someone else to use on their behalf.

This brings me to the amendment in the name of the noble Lord, Lord Collins. I say to the noble and right reverend Lord that I do not think that he is suggesting that the Secretary of State should draft regulations. I accept that this is a probing amendment; it is not a proposition that the Government have put on the Marshalled List. The noble Lord is seeking clarification of the term "encouraged". The wording in the Bill was chosen to cover as many scenarios as possible and to capture circumstances where the candidate or their agent encouraged a particular use of property, goods, services or facilities, without going as far as directing it or specifically authorising its use. There is an area of uncertainty here, as he acknowledged. However, if only formal authorisation is required, the risk is that the candidate could encourage someone to use a benefit in kind without having to not report it as they did not give authorisation for it to be used. Requiring further regulations to define this term would risk reducing the breadth of the scope of these new rules on notional expenditure and opening up potential loopholes that we are seeking to address. The language in this clause has been crafted to strike a balance between the status quo, where no form of authorisation is required, which has generated understandable concerns from candidates and agents, and the overly blunt alternative of formal authorisation, which could risk being circumvented in practice, as the noble Lord suggested.

This clarification of the law on notional spending is vital to ensure that candidates should not fear being responsible for benefits in kind of which they had no knowledge. I think we would agree with that; the Explanatory Notes say that. Encouragement in the context in which we understand it and in this Bill must be a positive act. It is not intended to capture situations where a candidate did not have knowledge of someone using a benefit in kind on their behalf.

As I said at the outset, as an experienced campaigner I acknowledge that it is not always easy readily to apply the rules on election spending practically to the day-to-day reality of a campaign. We will discuss guidance in greater detail later today, but I assure the Committee that we intend that the Electoral Commission will produce guidance for campaigners to help them understand specifically these concepts and to apply and comply with the rules on notional spending in so doing. In the past, the commission has made good use of illustrative examples to aid campaigners. Further to this, we are broadening the scope of the statutory codes of practice on election spending that can be prepared by the commission to ensure that the codes include guidance on notional spending.

Some Members of the Committee asked for some specific comments on legal meanings or for further detail on "encouraged". We expect that this guidance and the codes of practice will come forward from not the Secretary of State but the Electoral Commission. I understand where the noble Lord is coming from and will reflect on what has been said, and if I can I will put further clarification to him in writing and submit it to the House before Report, because I appreciate the direction he is coming from.

Lord Collins of Highbury (Lab): I thank the noble Lord for that response. Clearly, we are coming to a much more detailed debate about the clause in the stand part debate, but, in the light of the explanations given so far, I beg leave to withdraw my amendment.

Amendment 24A withdrawn.

Debate on whether Clause 18 should stand part of the Bill.

Lord Rennard (LD): My Lords, the reason for the Clause 18 stand part debate is that we should not let this important change in legislation pass without some significant scrutiny. The principle of notional expenditure might appear at first to be simple, but it is not quite so simple in the era of massive national party spending.

The original intention of election law concerning notional expenditure was always about making sure that spending limits were not circumvented by donations in kind. Before the Political Parties, Elections and Referendums Act 2000, there were limits only on expenditure by appointed election agents, or those they authorise, on behalf of their candidates. These people knew that money might not change hands for notional expenditure, covering things such as the use of a donated office for the campaign HQ or office equipment such as a photocopier, or significant discounts might be applied for their provision.

The value of the notional expenditure—what is effectively donated to the campaign—must be included in the candidate's expenditure limit. If this was not the case, people supporting candidates could provide offices, staff, leaflets, posters and advertising free of charge to the campaign of their choice, and these materials would not be subject to the limits on candidate expenditure.

The legislation passed in 2000 brought in the concept of national party spending limits to try to create a more level playing field at national level. Before then, the parties understood that spending on a national campaign had to be just that: national spending spread evenly across the whole country, covering things such as newspaper advertising, billboards and party election broadcasts.

However, with a national party spending limit of £19.5 million, the parties no longer feel obliged to spend what they can evenly across the whole country. They have increasingly decided to target their national party spending at marginal seats. This might have brought them into conflict with the law. We have seen what was supposed to be national advertising on billboards and in local newspapers targeted largely at marginal consistencies. The 2000 legislation intended to cap unfair financial advantage nationally, but inadvertently

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it might have had the opposite effect and accelerated the arms race in party expenditure at elections. Parties have since decided that their national campaigns can produce direct mail, leaflets, Facebook adverts et cetera, targeted largely at marginal constituencies.

The supposed clarification of notional expenditure in Clause 18 is there to say that, from now on, the candidate or the election agent is not responsible for such expenditure if they have not specifically authorised it. This might seem a reasonable principle at first glance, but it means that the costs of materials that might benefit their campaign do not have to be included in the tightly restricted spending limits for candidates in constituencies. National parties can now target their direct mail at specific voters in specific marginal seats. They pay for leaflets for those constituencies, and they pay for their distribution either commercially or by paid volunteers. National campaigns can swamp the efforts of individual candidates to make their case.

When the Conservative Party went over the top in 2015 by paying for the bussing in of hundreds of party workers in marginal seats, employing them to canvass and deliver leaflets, putting them up in hotels and paying for their meals, there was a national outcry, led by "Channel 4 News" and the *Daily Mirror*, among others. It appeared that the marginal seats that might have brought the Conservative victory had actually been bought.

5.15 pm

There were many investigations by an overstretched Electoral Commission and various police forces to see whether the law had been broken, but only one constituency campaign resulted in a prosecution. In the constituency of Thanet South, the Conservative Party narrowly defeated Mr Nigel Farage, then of UKIP. The noble Baroness, Lady Wheatcroft, referred to the resulting court case on our first day in Committee. Three people were charged in connection with that campaign, but it was no surprise to me that the successful candidate, Mr Craig Mackinlay—MP, as he became—and his election agent were acquitted, but the Conservative campaign HQ official was convicted.

My understanding of election law was always that the candidate and their election agent could not be held responsible for what they were not responsible for. I have therefore not been convinced that the specific clarification previously sought either in Craig Mackinlay's Private Member's Bill or in this Bill is necessary for the purpose stated. In proposing his Private Member's Bill, Mr Mackinlay stated that

"the Representation of the People Act 1983 needs to be amended so candidates and agents can go about their business without risk of prosecution."

However, nobody should be exempt from the law, and it is only in conducting lawful business that you should be exempt from prosecution. It is not, as claimed, a question of clarification being needed.

What is proposed appears to be a significant change in election law. Clarity was provided by the courts, as it should be, and in this case by both the Supreme Court judgment and Southwark Crown Court. The sentencing statement of Mr Justice Edis set out an important principle. He said:

"The law governing the maximum permitted amount which a candidate can spend, or which can be spent on behalf of a candidate, in a General Election exists to ensure a level playing field and also to limit the extent to which the electorate can be manipulated by costly and sophisticated systems designed to spread a message on behalf of a candidate in a Parliamentary election."

The court saw no justification for any claims of confusion or lack of clarity. It upheld a crucially important democratic principle.

We discussed the principle in this place two years ago. On 13 February 2019, the noble Lord, Lord Young of Cookham—whom I am pleased to see in his place, and whom I tried to notify that I was going to mention this—replied as a Minister from the Dispatch Box to a Question of mine about that court case, and the importance of maintaining a level playing field in constituency campaigning. He said:

"I entirely agree with the principle that the noble Lord has just enunciated. I was looking at the Corrupt and Illegal Practices Prevention Act 1883, which enshrined the principle to which he referred. The preamble states that, 'If its provisions are honestly carried out, the length of a man's purse will not, as now, be such an important factor … and the way will be opened for many men of talent, with small means, to take part in the government of the country, who have been hitherto deterred from seeking a seat in the House of Commons by the great expense which a contest entails'. That principle is timeless, even if the language may not be."—[*Official Report*, 13/2/19; col. 1842.]

What I am seeking to ensure is that this timeless principle for everyone who stands for Parliament is not dealt a fatal blow by what is described as a "clarification".

In the debate on this Bill in the other place, Mr Craig Mackinlay explained that this clause does what he wanted in his Private Member's Bill. However, in a letter to Lord Tyler, late of this House, of 3 July 2019, the Electoral Commission's chief executive, Mr Bob Posner, said that these proposals

"would risk allowing parties to spend what they like (subject to their national limits) on promoting their candidates in key marginal seats, which would also undermine the candidate spending limits that aim to provide a level playing field for campaigners".

We will no doubt be told shortly that the clause is a "necessary clarification" about notional expenditure. But clarification has already come from the Electoral Commission, which issued guidance about notional expenditure based on the Supreme Court ruling. This appears to have been effective in advising candidates and agents in the most recent general election. There was no repetition of the South Thanet court case because parties, candidates and their agents learned from it.

A wide-ranging Elections Bill such as this requires within it some means of ensuring that the strict limits on candidate spending in a constituency are not simply circumvented by national party spending, which is deemed to be exempt from the limits of what is authorised by the candidate or their agent.

First, will the Minister confirm that he still accepts the timeless principle of a level playing field in constituency election campaigns, as set out by his predecessor and noble friend Lord Young of Cookham in February 2019? Secondly, will he please explain what is in this Bill that will ensure that this principle is adhered to? Thirdly, if he accepts the first principle, will he confirm that there is no justification for increasing national

expense limits beyond those presently applied, as no party other than his own could possibly spend more than is presently allowed?

An Answer to a Written Question of mine yesterday suggested that the Government were intent on increasing these limits by the rate of inflation since 2000, or by about 79%. I fear that this clause, as it stands, would make it much easier for a party able to spend around £36 million on a general election, as opposed to around £20 million at present, to direct that expenditure towards the purchasing, in effect, of marginal constituencies. I beg to move.

Baroness Bennett of Manor Castle (GP): My Lords, I rise very briefly to speak in favour of this clause not standing part of the Bill. I should declare an interest that, as a Green, I am well used to always being on the wrong side of the unfair financial advantage the noble Lord, Lord Rennard, referred to. We obviously have an arms race in spending and politics paid for by the people who pump the money in. I have what might be considered a radical amendment later in this Bill to suggest that we put a very tight limit on donations. It starts from the other end of these things, saying that the quality of our politics is not benefiting from money being pumped in. This clause stand part notice suggests that we do not allow an escalation of the concentration of money even further.

Moving away from the interests of parties that do not have that sort of money—I am sure that many people who have done practical politics will know the reality of this—very often you have a street, down which is the boundary of a constituency or a council ward, and the people on one side are in a hotly contested marginal constituency and those on the other are in a safe seat. Neighbours talk to each other; one says, "I've got so many election leaflets coming through my door, my recycling bin is totally overflowing", and one from the other side of the street says, "Oh, is there an election on? I didn't know." Think about what kind of disrepute that brings our politics into, when massive amounts of resources are concentrated in a small number of seats. People can see that this is not right or balanced, or a national political contest.

The idea of allowing notional expenditure just to roll on takes us to a very bad place, so I back the noble Lord, Lord Rennard, on this.

Lord Stunell (LD): My Lords, we have already explored what the exact meaning of "encouraged" is. I thought the answer was going be a lemon, but it is guidance, apparently, which is not very encouraging. I am hopeful that the courts in the event will be just as robust in their interpretation of "encouraged" as they were in respect of coach trips to Thanet, so that this clause in practice will not make the change in the law the Minister hopes for. It may become a dead letter, even. More exactly, it will become not a dead letter but a further cause of confusion, with no reduction in jeopardy for agents and candidates who rely on it. But for the purposes of this debate, let us take it at face value.

In our debate last week on Clause 17, I referred to that clause as an exercise in "wing-clipping" the Electoral Commission. By the Minister's own account, as he told your Lordships, in practice, those proposed changes made no real difference to anything. He obviously intended to give us some reassurance that those changes meant nothing at all, but I surmise that when he reports back to CCHQ he will make it sound a far more impressive change. Now we have Clause 18, which I also think is going to be found facing both ways. In reality, it is an attempt to satisfy the bloodlust of some right-wing Tory MPs who had rather a close shave in 2015. The Minister's intention is that if this clause goes on the statute book next time, they will get away scot free. For that matter, we will all get away scot free, able to do exactly as the noble Baroness, Lady Bennett, has just spelled out. I actually think that in responding to this debate he will attempt to sell it to us as something far less important or serious: "It is simply a margin note to clarify the commonly accepted understanding of current law. Nothing to see here; let us move on to the next clause."

It is worth exploring what the law says now and how it will be different if this clause stands. My noble friend Lord Rennard spelled this out very clearly. In a general election, there are two financial constraints, one at constituency level and one at national level. The constituency spending level is, comparatively speaking, tight, and the national level is, comparatively speaking, generous—and about to become even more generous, apparently. That second constraint—the maximum figure a party can spend outside constituencies—goes into a national campaign. Even the Conservative Party, with all its large donors from various nationalities and provenances, has actually found it hard to spend up to the national limits; and no other party has come anywhere close. So there is an obvious temptation to use some of that spending power in supporting constituency campaigns, which may be pressing hard up against their expense ceiling.

Of course, big cheques cannot simply be handed over by a national party campaign to the local one. It would be too visible. But goods and services in kind are much harder to keep in focus from outside. Even so, existing election law requires the constituency agent to give a fair account of any goods and services received below cost, and that that difference should be taken into account as a donation in lieu. In practice, help has to be a little more nuanced and a little more distanced from the agent. That was the nub of the fracas in Thanet. The election court saw through the Conservatives' sleight of hand, so now we have Clause 18.

I call Clause 18 the "get out of jail free" clause. No notional spending by a party in a constituency will count unless the local agent or responsible person has "directed, authorised or encouraged" that spending. It probably does not work, although the dialogue between the party and the agent would be an interesting one to hear, would it not? "Hi Mr Agent, just a quick call from national HQ to let you know we are sending in a couple of teams to work alongside your people for the next couple of weeks. No big deal, it won't cost you a penny. Now, don't say a word, I don't need any encouragement from you. It is just that your seat polling figures are slipping, so we think you need some help." Was there any authorisation or encouragement? No, he did not encourage anybody. He did not open his lips.

5.30 pm

There is a bigger evil hiding in plain sight here. A national party with money to spare will be able to change the entire nature of our democratic system from one where voters elect their representatives to Parliament, with every contestant allowed the same quite modest ceiling on spending on something approaching a level playing field, to one where hugely disproportionate spending can be shovelled into specific seats—indirectly, of course, but none the less effectively. This would amplify the turn towards a presidential system and certainly be capable of distorting popular representation in Parliament. As my noble friend Lord Rennard pointed out, the clear intention of electoral law up to now has been to arrest that move to keep campaigning proportionate and literally within limits in constituencies.

This clause may well be defective and fail in its intentions anyway, but what it proposes to do is to smash those limits whenever a rich, well-funded national party wants to do so. Of course, it could well be that such a rich, well-funded party, having gained a substantial majority in Parliament, would then decide that it could easily afford the small political cost of ditching any search for cross-party consensus in bringing forward an election Bill and simply press ahead with fundamental change without even blinking. Clause 18 has to go.

Lord Grocott (Lab): My Lords, a kind of fiction has prevailed over a very long period of election history that, somehow or other, the crucial electoral battleground is each individual constituency. It has long been recognised that there is a need for strict limits on expenditure by individual candidates in individual constituencies. On the other level, however, there is the national campaign, where limits on expenditure are so much looser.

I was very alarmed, as I had not heard it before, by the information from the noble Lord, Lord Rennard—he is usually reliable on these issues—that there is possibly a huge increase planned in the maximum expenditure allowed at the national level. This may not be a popular thing to say to candidates—I may be talking to myself—but it is clear to me that, although both levels of campaigning expenditure are clearly important, if you had to label the one that is the most important in determining the overall outcome of modern elections, it would be the national expenditure and national campaign. All candidates believe profoundly that it is what they do in their individual constituencies that is of crucial importance.

I have also noticed that all candidates—I have been one of them—tend to think that, when they win their local campaign, it is down to a particular level of skill and expertise in their campaign, and when they lose, it is generally someone else's fault. The truth at general elections is that, for all the variance you can get in 650 different constituencies, the broad truth prevails: when the tide is out for your party, the tide is likely to be out everywhere, and vice versa. This whole issue of the balance between control over national expenditure and control over local expenditure is fundamental.

Of course, the irony is that, for years and years, there was control over local expenditure. It has long been recognised that there must be limits locally. However, it is relatively recently in our parliamentary history that we have seen the need for national limits; as we have said, they are so loose now as to be barely limits at all—certainly for one party in particular. This is a crucial area of debate and discussion but, most of all, the one headline I want to get out of this—perhaps the Minister will address it when he replies because he is on the inside track and we are not—is whether there really is a proposal that there should be a colossal increase in the level of expenditure allowed at the national level by political parties. If the Minister has any inside information on this, I would love him to share it with the Committee.

Lord Wallace of Saltaire (LD): My Lords, one of the things on which there was consensus from all the various reports that fed into this Bill was that what we need most of all is a simplification of electoral law. This clause is a classic example of making things more complicated. I think we all recognise that this is the Conservative response to the Thanet case. The case for having this in the clause is extremely weak.

I was interested to hear the noble Lord, Lord Collins, talk about the 1970 election campaign. I am older than him. I worked at party headquarters during the 1966 campaign. Looking back, it was incredibly amateur. The Conservative campaign was not that much more professional than ours at the national level. Then, the largest department in the Conservative headquarters, as I remember it, was the research department. We did not have phone canvassing, of course. We did not use opinion polls much. At the time, I was otherwise working as a research assistant to Dr David Butler on the first major survey of electoral opinion in Britain. We were using punch cards to get at our data; it was such a slow process that you could not analyse during the campaign at speed. We did not have any digital campaigning, of course. In those days, the Conservative Party had a couple of million members and raised a lot of its money and did most of its activity at the local level.

We have shifted a long way since then, soo I want to talk about some of the principles; I hope that the Minister still recognises that they are important. They cover this clause and Part 4. The first principle is that we should retain a clear distinction between constituency campaigning and national campaigning. After all, it is one of the most tried and tested aspects of our democracy that Parliament consists of people who represent local communities in constituencies. They have not always been individual constituencies as there used to be multiple-member constituencies; the noble Lord will go back far enough, but never mind.

That is the principle. It has already been weakened by the tightening of limits between constituencies, which means that the new constituencies that are about to be redrawn will represent recognisable local communities much less than they have done so far. We hear people—Jacob Rees-Mogg, for example—say, "We have already moved from a parliamentary system to a presidential system. That is how our elections now go". I regret that. As it happens, I am in favour of multiple-member constituencies and a much more open voting system, but that is part of the argument we should be having about the quality of our democracy. To erode the distinction between the constituency—that

is, the election of an individual MP—and the national campaign would be a fundamental shift in our democracy larger than changing the nature of our voting system. I hope that the Minister recognises that.

Lord Grocott (Lab): I agree so much about the importance of the close connection between individual candidates and individual constituencies but I am sure that the noble Lord would agree with me that that is much weakened under a system of proportional representation.

Lord Wallace of Saltaire (LD): We need not discuss the various alternative forms of voter registration. "Not necessarily" is the easy answer.

The second principle I want to focus on, mentioned by my noble friend Lord Stunell, is that there should as far as possible be a level playing field. We have seen what happened as that disappeared with the lifting of funding restrictions in the United States. The quality of American campaigning and the level of trust in American democracy have gone down, and that is partly because of the sheer weight of money that now deforms American politics. We have it here. I read in the *Sunday Times* the weekend before last that in the last three months of 2019, Ben Elliot, the chairman of the Conservative Party, raised just over £37 million for the Conservative Party, more than it was able to spend legally in the course of the campaign, and that it represented two-thirds of the money raised by all registered parties in that period. That takes the whole idea of a level playing field for democracy into deep and difficult trouble, and it strengthens the case for making sure that the regulation of expenditure, which is what Part 4 is about, is kept tight, clear and simple.

The third principle that I hope the Minister will agree on is that funding and expenditure should be as transparent as possible, both by registered parties and, as we shall come on to, by third parties, and that this clause does not help in that regard.

Clause 18 weakens regulation. It complicates and confuses it. I think we have seen from Second Reading and from our first day in Committee that noble Lords throughout the House generally agree on the need to strengthen regulation and the Electoral Commission. For these reasons, I suggest to the Minister that the clause as drafted and as intended does not match the Bill.

Lord Collins of Highbury (Lab): My Lords, I come back to the comment I made on the earlier group of amendments: what is broken? What is this clause trying to put right, and does it solve it? I think we have heard from the debate on it that it does not really address the issue. Whatever happened in Thanet—and there may be other instances that were not subject to court cases—it has certainly gone through a proper legal process. As we have heard, both the Supreme Court and the Electoral Commission have addressed that issue.

I regret that we have moved away from the requirement that fundamental changes be subject to consent across all parties. That has been an important element of maintaining our democracy. Of course, the Trade Union Act was the first part of that attack by the Conservative Party on one party, which broke that consensus on funding.

As I have said before, the Conservative Party likes a debate about spending limits— "We can have a limit here, and the national limit and so on"—but the real debate is not about spending but about income. When David Cameron was Prime Minister and we have had discussions about it, we have seen that it is the income side of our politics that brings it into disrepute. Very rarely is it the spending side. The income side is about who has given the money, how much they are giving and what they expect for it. Taking big money out of politics is the issue. I say to the Conservative Party that its time will come, because when it is in opposition there will be a strong focus on the income side of this debate, and it will not like the result. It will not be able to rely on a large number of very wealthy people; it will have to rely on a larger number of low-income people, because I strongly believe that caps on donations are far more important than limits on spending. That is a debate for another day, but it is important to set today's debate in context.

5.45 pm

This is an important constitutional issue. We are talking about strong limits, which historically have always been there, on constituency spending versus national spend. Thanet comes into this because all political parties have become more sophisticated in their campaigning; all political parties target, and their ability to do so has become more sophisticated. I am sure the Minister knows full well the consequences of this, because the Liberal Democrats target very effectively his own borough in Richmond, where they have had huge successes. That is inevitable, but we have to balance that with how we preserve the fundamental constitutional position.

Like my noble friend, I am not a supporter of proportional representation, although I am prepared to examine it and debate it. What I like about our democratic system is the single-Member constituency, whereby the elected person represents the whole community and is connected with that community and that locality. That is something the big political parties, including the Lib Dems, cannot necessarily break down. There will be occasions when someone who is not in a big political party wins because of their connection with that local constituency. That is why those local spending limits are so important. They enable that person who is not part of a big machine to come through. I say to the noble Baroness, Lady Bennett, that there are occasions when the Green Party breaks through because it has somebody in a local constituency who is extremely well connected with it. That is the principle we are addressing here.

We might think of notional spend in terms of a rich person giving an office and so on—which all counts—but the reality is that the notional spend is when a political party uses its national expenditure to target in a way that impacts on the local spend. I am fully aware of those risks, but the existing statutory requirements are adequate to deal with any problem. That is why I come back to the point that many noble Lords have made: that this provision, far from offering clarity and closing a loophole, risks creating uncertainty, opening the loophole and diminishing our constitutional position in respect of constituencies.

[Lord Collins of Highbury]

Doing this is really dangerous. I know we will get into other debates on the codes and Electoral Commission guidance, and we will go on to some of the other issues, but we are in danger of undermining our good constitutional position of single-Member constituencies in favour of a more presidential-style election campaign. That is a big risk, and we should resist it. If it is not broken, do not fix it. Let us stick with what we have.

Baroness Scott of Bybrook (Con): My Lords, I will start by answering the noble Lord, Lord Collins. He asked twice, once of my noble friend and once of me: what is the problem here? Currently, as the 2018 Supreme Court case revealed, the law is at odds with what the candidates understand in their communities. That ruling has meant that agents are now unsure—we have talked a lot about how difficult it is to get agents—about how to account for notional expenditure. That is exactly what we are addressing in the Bill.

Before I move on from the noble Lord, I will just say how much I agree with him on the importance—to me, the most important thing in our electoral system—of that connection between an individual candidate, whether local or national, and the communities that they are trying to serve, and do serve if they win an election. To me, that is the most important thing in our democracy.

The level playing field was brought up by a number of noble Lords, including the noble Baroness, Lady Bennett, and the noble Lords, Lord Rennard and Lord Wallace. It is important, but the rules that we are putting forward on notional expenditure are designed to maintain free and fair elections. Political parties will not be able to spend more on candidates as a result of these amendments. All spending which is currently recorded will continue to be recorded. These amendments will therefore uphold the level playing field for elections, which, as I have said, form the cornerstone of our democracy. Expenditure that promotes an individual candidature will continue to count towards a candidate's own spending limit. Expenditure which is joint between a party and a candidate will continue to be apportioned in an appropriate way and reported to the returning officer. The level playing field is continued.

A number of noble Lords brought up national spending limits. Spending limits are different from the protections for candidates which ensure that their agent must approve certain expenditure, but the Government are intending to review party and candidate spending limits for all other polls apart from local elections, which were increased in line with inflation in 2021. It is important that these are uprated in line with inflation, which will create a solid baseline for future reviews.

The noble Lord, Lord Stunell, again mentioned national versus local spending and asked whether this would cause spending to stop being reported and allow parties to spend more on candidates without reporting it. No, it will not. No notional expenditure will stop being reported as a result of this clarification. Benefits in kind which are offered and used by them or their agent, or anyone authorised, directed or encouraged to make use of them on the candidate's behalf, will still need to be reported. Also, where a third party, including a political party, is spending money to promote a candidate directly to the electorate, this generally falls under spending in Section 75 of the Representation of the People Act 1983. Those reporting rules will still apply.

The noble Lord, Lord Wallace, asked about transparency. Transparency is indeed there and will continue to be there in all spending on local and national elections.

We have heard already, and it has been said a number of times, that Clause 18 clarifies the law on notional expenditure, making it clear that candidates need to report only benefits in kind—that is, property, goods, services and facilities that are provided for the use or the benefit of the candidate at a discount or for free—which they have actually used or which they or their election agent have directed, authorised or encouraged someone else to use on their behalf. I think it was the noble Lord, Lord Wallace, asked about somebody ringing up from central office and saying that they are bringing down a bus. I suggest that you will have either authorised or encouraged it; I do not believe you would say nothing on the end of that phone if that is going to happen. This is what was already widely understood to be true. Nothing much is changing; we thought that was true prior to the Supreme Court judgment in the matter of R v Mackinlay and others.

In its 2019 report on electoral law, the Public Administration and Constitutional Affairs Committee called for consultation to take place on how the law on notional spending could be clarified. In evidence to PACAC, the Labour Party said that it would be supportive of legislation

"that would serve to clarify Parliament's intention as to the extent the election agent is responsible for expenditure by third party campaigns to support their candidates."

So the Labour Party, in PACAC, was in support of this. That is precisely—

Lord Collins of Highbury (Lab): I am sorry to interrupt, but one has to see the context of that response. Our argument tonight is that this clause does not do that—it does not provide clarity. I wish it did, and then we could all support it. But it could lead to the complete opposite of what the noble Baroness is suggesting.

Baroness Scott of Bybrook (Con): I suggest that the Government believe that it does clarify; that is exactly what it does, so we will have to disagree on that. We feel that Clauses 18 and 20 of the Bill do precisely what the Labour Party asked for and supported in PACAC.

Lord Wallace of Saltaire (LD): My Lords, if I have understood the argument that the noble Baroness has been making, this clause would not in any sense change the outcome of the Thanet case. If it is clarifying things in that direction, the clause is not necessary.

Baroness Scott of Bybrook (Con): No, what I am saying is that it will clarify for candidates and agents what is required and what was not very clear at the time of that case.

We have sought input on these measures from the Parliamentary Parties Panel and we are confident that they will bring important clarity to the rules and support compliance. Indeed, Craig Mackinlay, the Member of Parliament for South Thanet, whom we have talked about a number of times, knows better than anyone the deficient nature of the current rules, and he welcomed and praised the clarity which this Bill brings to notional expenditure.

In this clause, we are also making an equivalent amendment to the notional expenditure rules for other types of campaigners, such as political parties and third-party campaigners, to ensure that all the rules are consistent. Together, these changes will bring much-needed reassurance and clarity to candidates and their agents on the rules that apply to notional expenditure for reserved elections. Alongside guidance from the Electoral Commission, with which we are working closely, this measure will support compliance with the rules and ensure that those wishing to participate in public life can feel safe doing so, clear in their legal obligations. It is for this reason that I urge that this clause should stand part of the Bill.

Lord Rennard (LD): My Lords, I am grateful to the Minister for that reply. She mentioned the PACAC report into some of these issues, but without quoting the crucial recommendation, in paragraph 16, which says that

"reform should only be taken forwards on the basis of clear consensus."

This debate, at the very least, has shown that there is not that consensus. It seems to me that the debate is not about how to account for notional spending but whether to account for some of it at all. We have not really been satisfied that, if there were busloads of people from one party, the costs of the coaches, their hotels, their meals and the leaflets they deliver—all spent in a constituency with the clear intention of promoting a candidate—will appear in the constituency limit for that candidate, which is their proper place. The Bill does not seem to make that plain.

I am very grateful to the noble Lord, Lord Collins, and the noble Baroness, Lady Bennett, for confirming on behalf of the Labour Party and the Green Party that they do not see this clause as necessary. It seems to add significant confusion, and in my view it is particularly important not to add to confusion about what should be included at the same time as you may increase spending totals nationally. As the noble Baroness said, they may have to rise, but the Government said yesterday, in answer to a Written Question I tabled on 28 February, HL6502, that they may increase in line with inflation. That is inflation since 2000, which is 79% and would take a £19.5 million limit to nearly £36 million. There are more issues to debate on this in the next group of amendments.

Clause 18, as amended, agreed.

6 pm

Amendment 25

Moved by ***Baroness Hayman of Ullock***

25: After Clause 18, insert the following new Clause—

"Guidance to candidates on notional expenditure

The Secretary of State must publish new guidance to candidates on notional expenditure within the period of 12 months beginning with the day on which this Act is passed."

Baroness Hayman of Ullock (Lab): My Lords, I am speaking to my Amendment 25. In this group there is also Amendment 25A in the name of the noble Lord, Lord Rennard, which is very similar. These two amendments will echo quite a lot of the debate we have had over the last two groups, and I completely echo the words of my noble friend Lord Collins, in his response to the previous group, about many of the concerns we have about this clause.

As we know, Clause 18 concerns notional expenditure on behalf of candidates and others. In the debate we have just had, my noble friend Lord Collins, the noble Lord, Lord Rennard, and others drew attention to the detail of what this clause would mean, how it would potentially work and how election law has changed over time—and not just law. Elections have become more sophisticated and more money is being spent, so we really need to make sure that in future we conduct elections in the right and proper way. The Elections Bill needs to be able to provide that integrity and reassurance as we move forward.

Specifically, my Amendment 25 says:

"The Secretary of State must publish new guidance to candidates on notional expenditure within the period of 12 months".

Amendment 25A from the noble Lord, Lord Rennard, suggests:

"The Electoral Commission must publish new guidance to candidates".

To be honest, I do not really mind which; I just think it is important that such guidance is published.

I read the debate in the other place on this part of the Bill. Introducing this clause, the Minister, Kemi Badenoch, said that it

"makes an important clarification to our political finance rules".

She went on to explain—as did our Minister, the noble Baroness, Lady Scott—that this came from the Supreme Court decision in 2018 after it was

"determined that the rules on notional expenditure for candidates did not contain a test of authorisation"

and

"there were concerns among parties and campaigners that candidates could be liable to report benefits in kind that they did not know about, but could be seen to have benefited from."

Obviously, there has been a lot of discussion about what that meant in South Thanet and how that has had an impact on political behaviour during elections since.

What came over in particular from the last debate, and is important when looking at what we are talking about now around the new guidance, is the way in which campaigning has increasingly become pressurised on marginal seats. As my noble friend Lord Collins said, that is the case with all parties. He rightly referenced the fact that political income is an area we need to really look at—where it comes from, how our donations are managed and who provides them. This is an area where, if we are not careful, the behaviour of political parties could come into disrepute. I am not pointing the finger at any party, just saying that we need to be very careful around this when drawing up new election law.

[Baroness Hayman of Ullock]

Minister Badenoch went on to say that this is why the Government want to make it

"clear that candidates only need to report as notional expenditure benefits in kind—property, goods, services and facilities that are given to the candidate at a discount, or for free—that they have used themselves, or which they or their agent have authorised, directed or encouraged someone else to use on the candidate's behalf",

so that "clarity" is provided

"to candidates and their agents on the rules that apply to notional expenditure."—[*Official Report*, Commons, Elections Bill Committee, 26/10/21; cols. 299-300.]

In the Minister's introduction, and later in the debate, the word "clarity" was used a couple of times. If we are talking about clarity, guidance is important. People need to know when any new rules are brought in. As other noble Lords have said, this is adding to complexity. As a candidate or an agent, you need to know exactly what is expected of you, and it needs to be easy to understand.

During a debate on election expenditure in the other place, Craig Mackinlay—who, as we are all aware, was the candidate and is now the MP for South Thanet—agreed with Andrew Bridgen MP that it was worrying that currently

"a candidate in an election could be liable under the law for spending on his behalf that he neither authorised, nor was even aware of."—[*Official Report*, Commons, 11/2/19; col. 690.]

I have been a candidate a number of times in local and parliamentary elections—and, once upon a time, in European elections, but of course that will never happen again—and other noble Lords have talked about this. When you are a candidate, you rely an awful lot on your agent. As my noble friend Lord Grocott said, not many people actually want to be an agent; I have managed to dodge it so far. This clarity, this information, about what the guidance will mean and how they are supposed to operate within any new laws is incredibly important.

A number of noble Lords mentioned the Public Administration and Constitutional Affairs Committee's response to this part of the Bill. The Minister said that the proposed changes in the Bill are broadly welcomed but, as other noble Lords said, there were concerns around this. As the noble Lord, Lord Rennard, said, this included moving forward with clarity—that word again. We need to know where we all stand. The report said:

"The Government's response to the CSPL report on electoral finance regulation provides no indication of which of its recommendations (not already included in the Bill) the Government is likely to adopt (via amendment), prioritise for consultation or when or how the Government proposes to give legislative effect to recommendations that will not be included in the Bill. The Government should give clarity on its next steps in this regard."

It would be helpful to have further information. The Government responded to this and said:

"The Elections Bill is bringing forward the key changes to the regulation of expenditure we need to make now, and it already delivers on several of the recommendations made by the CSPL report. The CSPL report puts forward many recommendations that deserve full consideration".

I would be interested to hear from the Minister which recommendations the Government were referring to. Their response added that

"further work must be done to consider the implications and practicalities of any further changes to complex electoral law."

It would be helpful if the Minister could update us on any further work in this regard following the Government's response. If he is unable to provide that information today, it would be very helpful to have it in writing. The other thing that came through from the evidence to the committee was the response by Professor Fisher, who again considered that the term "encouraged by" could lead to confusion. We had a previous debate on this and I think most noble Lords who spoke agreed that "encouraged by" did not provide the clarity that we need. It is used seven times in Clause 18, scattered all the way through it.

Again, we need to make sure that the rules are understood in order for them to be properly complied with, because this is where we came unstuck before. People did not really understand them, which is why we had the issues around Thanet. The noble Lord, Lord Wallace, said that if we are not careful we will constantly be adding complexity in the Bill when what we need in electoral law is exactly the opposite. The noble Lord, Lord Collins, talked about the importance of having consensus when we are looking to change the law on how we conduct our elections.

My amendment would mean that the Secretary of State—and the amendment from the noble Lord, Lord Rennard, would mean that the Electoral Commission—would have to publish new guidance to candidates on the changes. It is important that everyone understands any new responsibilities because we cannot have misunderstanding or misinterpretation. It is not fair on candidates and very much not fair on their agents.

Amendment 30B in the name of my noble friend Lord Collins looks at the threshold for payments in respect of any election expenses. We suggest that the threshold would increase. Section 73 of the Representation of the People Act 1983, which is the section on payment of expenses through election agents, states that:

"Every payment made by an election agent in respect of any election expenses shall, except where less than £20, be vouched for by a bill stating the particulars or by a receipt."

The Minister may be able to clarify this, but my understanding is that this figure of £20 has not been updated since 1985. Clearly, £20 was worth quite a bit more back in 1985 than it is today.

This is a just a probing amendment to suggest to the Government that they could have another look at the RPA in this area. If you are increasing spending in other areas, this is a simple thing that could be done and our suggestion of £65 in the amendment is really just intended to be a starting point for discussion. Sadly, there is not an awful lot you can buy these days for only £20. I beg to move.

The Deputy Chairman of Committees (Lord McNicol of West Kilbride) (Lab): My Lords, Amendments 25 and 25A appear to be alternatives.

Lord Rennard (LD): My Lords, this debate has shown that the noble Baroness, Lady Hayman, is definitely right that we need guidance on this crucial issue of notional expenditure. Many of us think that we do not necessarily need a change in the law, given that the courts have clarified the existing position and we need further guidance about what those decisions by the Supreme Court and Southwark Crown Court mean in practice for candidates and agents.

I believe that the appropriate body to provide such guidance is the Electoral Commission. That is partly because it can obtain legal advice independent from that of the Government; the commission can obtain advice about the meaning of the law that may be different from the interpretation of the Government of the day. It can advise all parties impartially and fairly. The Government's view is most likely to coincide entirely with how the party presently in power would like the law to be interpreted, and that is not a good thing in a democracy.

6.15 pm

In looking at the general issue of whether it should be the Electoral Commission deciding on rules about the interpretation of election law or the Government, I came across this interesting exchange following an Oral Question of mine on 13 February 2019. My noble friend Lord Stunell asked:

"does the Minister agree that it is vital to retain a robustly independent Electoral Commission … and that we never return to the bad old days when the rules were decided by the party which formed the Government in the House of Commons?"

The Minister at the time, the noble Lord, Lord Young of Cookham, replied:

"Yes. Before we had the Electoral Commission many of its responsibilities were discharged by the Home Office, which was, of course, run by political animals; namely, Ministers. It enhances confidence in the democratic process to have an independent commission, such as the Electoral Commission, in charge of the rules. We have no intention of departing from the principles which underpin the Electoral Commission. I think I am right in saying, as the Opposition spokesman at the time, that my party supported its establishment."—[*Official Report*, 13/2/19; col. 1843.]

As is so often the case, the noble Lord, Lord Young of Cookham, spoke wisely. He appeared to support what was the position of the Conservative Party for almost 20 years until very recently. Then after the 2015 general election there was the controversary we have referred to concerning notional expenditure and how the Conservative campaign headquarters appeared to be breaking the rules to support its candidates in marginal seats. We have discussed how in July 2018 the Electoral Commission took the issue to the Supreme Court, obtained clarification of the law, and charges and a conviction for a senior employee of the campaign HQ then followed.

If there was concern about the need for clarity, the Electoral Commission was best placed to provide it impartially and objectively, and indeed set about doing exactly that. It consulted all the parties extensively. It produced codes of practice for candidates and agents. These codes provided advice and they should then have been introduced as statutory instruments to have greater force in law, but even as codes there would have been something that the courts could take notice of. These codes were submitted to the Cabinet Office on 21 April 2020 and there they were buried until now, when the Government appear to want them to be rewritten in this legislation. That is why it is the Electoral Commission which should be responsible for issuing advice on the interpretation of election law, not the party in power.

I will briefly say a word on Amendment 30B in the name of the noble Lord, Lord Collins: £20 is a very out-of-date figure for an election agent to have to submit a formal voucher on. I recall as an agent many years ago when the limit was £2, and before submitting the return of election expenses I had to drive round various places to collect a receipt or a voucher for £2 to meet the very tight deadline. Oh, there is a phone ringing; my apologies, that is someone calling about the receipts that are overdue from some previous election. I think I took part in debates that increased the limit from £2 to £20 and thought that was my triumph as a former agent—the agents fought back and got the limit uprated. It should be uprated because there is no actual increase in spending in the proposition, simply a realistic increase in the limit for which you have to produce a voucher. This reduces paperwork, bureaucracy and time so that people can get on with their real jobs.

Lord Hodgson of Astley Abbotts (Con): My Lords, I just want to intervene, not about the substance of the matter we are debating but about the process. We have two very interesting parallel amendments which have what one might call different routes to market. The noble Baroness, Lady Hayman, said she did not really mind which was followed. I think she should worry, for reasons I shall explain. We tend to pass by—too easily, in my view—guidance, statutory codes, as just referred to by the noble Lord, Lord Rennard, regulations and rules. Who devises them, who decides what they are, who implements them and who enforces them? I think it is important that, at some point in the debate on the Bill, we take just a moment to think about the different ways this cat can be skinned.

In the debate on Clauses 14 and 15 in the last day in Committee, the noble and learned Lord, Lord Judge, who is not in his place, led the charge, assisted by several other noble Lords from around the House, to give my noble friend the Minister a kicking. I think the idea behind those speakers was to buttress, protect and safeguard the independence of the Electoral Commission. The noble Lord, Lord Stunell, referred to this earlier. Well, up to a point. The noble and learned Lord, Lord Judge, and I are absolutely as one about the need to improve the way we scrutinise secondary legislation in this country; it is clearly deficient and no longer fit for purpose.

The Delegated Powers and Regulatory Reform Committee, under my noble friend Lord Blencathra and now under my noble friend Lord McLoughlin, produced a report at the end of last year about the democratic deficit. The Secondary Legislation Scrutiny Committee, which I chair, produced a report on government by diktat. My noble friend the Minister will be fed up with me going on about this, but we are going to go on and on and talk to our colleagues in the Commons until we begin to get a better balance in the way we handle these things. That is, of course, a debate for another day, but in those two reports, we draw attention to the danger of what one might call tertiary legislation—that is, rules and regulations made by bodies that have little or no democratic control over their self-standing and no parliamentary control. It is important that I used the phrase parliamentary control, not government control. I am talking about control by the legislature, not by the Executive.

What I am saying is in no way a criticism of the Electoral Commission, but times change, commission members change just as Ministers change, and I am

[Lord Hodgson of Astley Abbotts]
not convinced, as a matter of principle, that the Electoral Commission should be given too much independence in devising and implementing processes that go to the heart of our democratic system. We may feel that the system for scrutinising secondary legislation is not good enough, but we do at least have a chance to debate it and talk about it in public, here in your Lordships' House and in the House of Commons. We cannot amend it, and I know that is a weakness, but we do provide a focal point for people who wish to comment on it, raise issues and express their support for it, discontent with it or opposition to it.

I see the noble Baroness, Lady Bennett of Manor Castle, in her place. The SLSC was very unhappy about some aspects of the procedure the Government followed about GMO and the new regulations, and therefore last night there was a lengthy debate. Could the regulations be amended? No, they could not, but there was a great deal of opportunity for people to express their concerns about that particular regulation. If the Electoral Commission produces a code, ex cathedra, there is no point at which that debate can take place. People can complain about it or write in, but there is no forum where Parliament—again, I say Parliament, both Houses of Parliament—can say its piece about whether it is fit for purpose. After all, it is Parliament that will be most concerned with and most expert in what is being proposed.

I favour Amendment 25, moved by the noble Baroness, Lady Hayman, which says it should go through the Secretary of State. I assume that when she revises her amendment, she will say "by regulation": he or she is not just going to write it, it will be by regulation that it would come into force. I say to the noble Lord, Lord Rennard, that if he were to amend his amendment to say that the Electoral Commission has to produce a code which will become a statutory code, I think that would also serve the purpose. At present, we need to be very clear that the Electoral Commission is not the answer to everything. There is a need for the democratic process to have some input into the way this is all moving forward, or else we will have a situation where a body may be moving away from the central ethos of what the two Houses of Parliament believe is the right way to conduct things.

Lord Wallace of Saltaire (LD): This is an important principle. The noble Lord and I have spent some time looking at the Charity Commission, on which he is much more expert than I am. I used to be able to quote CC9 and other bits of Charity Commission guidance by heart when I was a trustee of a charity. Does he think that the principle he is enunciating should apply to most of these commission regulatory bodies, or is the Electoral Commission a special case?

Lord Hodgson of Astley Abbotts (Con): I think the Electoral Commission is a special case because we are talking about an elections Bill, but it goes wider than that. My noble friend Lord Blencathra is hot on this. He has a list of bodies that are, as he would say, running too free, but the Electoral Commission is a special case because of the nature of the Bill we are discussing. A subsidiary question is, do we need more codes elsewhere? I have some amendments down later on, which we shall get to on Thursday, which will provide a way of clarifying and giving third-party campaigners some security and safety about what they are doing—I think that is much more important. However, that is a discussion for Thursday.

My last point is to the noble Lord, Lord Collins, about his Amendment 30B. We have said again and again that we need to have our election law in one place. The fact we are having to discuss RPA 1983 in connection with this Bill in 2022 shows how urgent this is and how the points made across the Committee need to be taken on board by the Government, who at some point need to find time to pull this all together.

Lord Stunell (LD): My Lords, I may be able to join up some of the dots in what has just been said, particularly to draw out the position of the Committee on Standards in Public Life. The noble Baroness, Lady Hayman of Ullock, said it would be really useful to know which of the CSPL recommendations the Government believed—or thought or imagined—they had ticked off: which boxes they have ticked and which they have not. Maybe the Minister in reply could undertake to write us a letter which sets out the recommendations and whether the Government have, have not or have partly fitted them into the Bill; I think that would be to the benefit of the debate. Of course, the very first recommendation of the CSPL in that report is that there should be a comprehensive Bill on all election law, as set out by the Law Commission. I know the Minister, in replying at Second Reading, explained that it was all too busy and too complex, so recommendation 1 is not going to happen at this time, but not doing recommendation 1 is causing problems with a whole lot of other things that are happening.

In defence of Amendment 25A, proposed by my noble friend Lord Rennard, the current position is as it was when the Electoral Commission drew up guidance in 2020. It submitted it to the Cabinet Office so that it could be published as a statutory instrument and, whatever the defects of statutory instruments, its guidance would in fact have come before the House. So, there is a downstream process—it may not be very effective, but it does to some extent, I hope, tick that particular box.

6.30 pm

There is an interconnecting, moving part here, which is the strategic statement by the Government about the direction in which the Electoral Commission should pursue its activities. For me, Amendment 25 is the wrong way to go. One person's clarification can be another person's finger on the scale, making the weighing machine show a faulty reading. There are far too many clarifications in this Bill which, funnily enough, on examination always turn out to have the same kind of impact on the level playing field. It would be right for the Electoral Commission to do what it was set up to do, which is to regulate elections. It should be for it to draw up the guidance, which should be submitted to the Government and published as a statutory instrument which would come before both Houses for proper examination.

The point that both amendments are making is that we must have that guidance published. Some of us have been making the point, through Parliamentary Questions, debates and so on, about why that guidance has sat undistributed for two years and is now being superseded, if this legislation goes through, by a further process with no timescale attached to it, which will presumably be published some time this year. Perhaps the Minister can comment on when the Government think that guidance will be published, by whoever brings it up.

The search for clarity, which seemed to be the only argument left in the Minister's locker about Clause 18 as a whole has been deliberately held back for two years on this very issue and is about to be held back for a further year, or six or nine months, perhaps, before it comes into force. If there is really an argument that agents and candidates have been waiting for guidance, a good question to the Minister is: why has the Cabinet Office sat on some perfectly good guidance for all that time? It is not secret guidance—the content of that guidance has been known—but it has not come into force in any way.

Maybe this Bill does mean that some of the guidance must be brought up to date to take account of the new realities, although some of us wish it did not have to. However, given that, we need to hear the timetable as well as the mechanism for ensuring that the guidance happens. I would prefer it to be guidance where there was not a Secretary of State with a finger on the scales ensuring that the reading favoured one particular point of view.

Lord True (Con): My Lords, again I welcome this short debate. It was very good to hear from my noble friend Lord Hodgson of Astley Abbotts. I was not angry about what he said. I agreed with some of his points, and they were certainly points for reflection. There was a point in his speech when I wished he had been the fifth cavalry in the last debate that we had on the Electoral Commission, rather than the 55th, but the 55th cavalry is welcome. I will come on to the question of who is responsible in relation to regulation in a minute. The debate ranged widely, and while the issue of tertiary law, as he put it, and how that is considered, was a little wide of it, I acknowledge it as an important point of reflection.

The Government responded to the CSPL's report in September 2021. The Bill already contains measures which closely relate to its recommendations. I will look at some of the material which is theoretically before us today, depending on progress. The new requirement for political parties to declare assets and liabilities over £500 on registration was recommendation 10 of the CSPL report. Another recommendation was the restriction of third-party campaigning to UK-based campaigners. These things are set out in Clauses 21 and 24. The Government intend to look at all recommendations from the CSPL, alongside recommendations set out in similar reports, as part of further work on the regulatory framework during and beyond the Bill. I will certainly take those recommendations seriously.

These amendments relate to the clarification of the law on notional expenditure. Some of the ground was covered in previous groups but I thank the noble Baroness, Lady Hayman, and the noble Lord, Lord Rennard, for their points urging timely publication of new guidance. Irrespective of whether we believe that the law needs clarification or, as is the contention which I have heard on the other side, that it does not, clearly publication of new guidance should be timely. It is the responsibility of the Electoral Commission to provide that guidance to parties and people standing in elections. Clause 19(1) amends the provision in electoral law to provide that the Electoral Commission may prepare guidance on election expenses for candidates. These amendments are to make it clear that the guidance can cover the application of the rules in relation to expenses incurred, including notional expenditure.

I cannot give a specific date, as was requested in both elections, but I assure the House that it must be locked into the process of implementation of the legislation. The responsibility sits with the commission, and therefore technically, siding a little in the debate, I think that the Government would oppose the noble Baroness's idea of giving the duty to the Secretary of State. However, whoever it is given to, I wish to see guidance as quickly as possible. The Government have confidence that the commission will act promptly. We intend to commence the provisions in this Bill on a staggered basis and we will closely engage the Electoral Commission to ensure the readiness of new guidance at every stage.

Lord Hodgson of Astley Abbotts (Con): When my noble friend says that he has confidence in the Electoral Commission, which I understand, will this be a statutory code, or will it just be guidance, without any statutory backing?

Lord True (Con): My Lords, there is reference in Clause 19(1) to a duty to provide guidance. I cannot give all the specific details, but it is clearly the intention of the Government that it be covered in that way.

I understand the point made by the noble Lord, Lord Collins, on increasing the threshold at which an election agent is required to approve expenses. The noble Lord is always very thoughtful on these matters. Indeed, the noble Lord, Lord Rennard, referred to the days when £2 was the limit. Clause 20 amends Section 73 of the Representation of the People Act to allow other persons to pay expenses that they have incurred rather than the election agent. This will provide clarity to third parties who have been authorised by a candidate or agent to promote them. The Government are supportive in principle. I can tell the noble Lord, Lord Collins, of increasing relevant values by the value of inflation to ensure that they remain as Parliament originally intended. We raised candidate spending limits for local elections in line with inflation before the May 2021 elections, and we intend to review party and candidate spending limits for all other polls—obviously not those within the legislative competence of the Welsh and Scottish Governments—next year, with a view to uprating them in line with inflation since they were originally set. This should create a baseline for regular and consistent reviews of such limits in future.

The noble Lord has raised an important point. Obviously, consideration will have to be given at each stage to ensure that the implications of changing a

[LORD TRUE]
particular figure are understood. We welcome further discussion on this point, in the spirit which he suggests, but the Government's intention is that those levels be reviewed next year. For these reasons, I urge that the amendment be withdrawn.

Baroness Hayman of Ullock (Lab): My Lords, I thank the Minister for his thorough response to this debate.

On the amendment in the name of my noble friend Lord Collins around increasing the threshold, I have a slight concern that, rather than necessarily increasing the threshold, we will be saying, "Other people can also pay for things—it's not just the agent." Anybody who has been involved with an election and seen a poor agent trying to put the expenses together will know that if people are allowed to just start spending, it can get extremely complicated and sometimes quite worrying, because the agent needs really good control over the money during an election. I just put that into the debate. If this threshold could be reviewed as part of an ongoing review, that would be very a practical and helpful thing that we could all agree on.

I thank the noble Lord, Lord Hodgson, for preferring my Amendment 25 to that of the noble Lord, Lord Rennard, even though the Minister did not—it is nice to know that somebody felt I was going in the right direction. On the Minister's response on the CSPL, I was trying to find out about the recommendations that are not included in the Bill—I am aware that some are in it. The Minister said that all the recommendations would be looked at; this House should have an idea of how the Government are taking this forward, whether these things may come forward as SIs in the future, and how they would be implemented.

I was also pleased to hear the Minister say that he believed that publication of new guidance should be both timely and part of the locked-in process of any implementation and that he wants to see the guidance produced as quickly as possible. I thank him very much for his response and beg leave to withdraw the amendment.

Amendment 25 withdrawn.

Amendment 25A not moved.

Clause 19: Codes of practice on expenses

Amendment 25B

Moved by ***Lord Collins of Highbury***

25B: Clause 19, page 29, line 22, at end insert—

"(aa) after sub-paragraph (2), insert—

"(2A) The Commission must submit a draft code at least once during each 10 year period.""

Member's explanatory statement

This amendment would amend provisions on the Electoral Commission's guidance regarding election expenses to ensure that new guidance is published at least once every ten years.

Lord Collins of Highbury (Lab): My Lords, I hope the noble Lord, Lord Hodgson, will speak in this debate, as Clause 19 sort of addresses some of the issues that he raised in the previous discussion.

I am not as old as the noble Lord, Lord Wallace, suggested, although I have to confess that I have been around for a very long time. I have had responsibility for the statutory adoption of electoral law, and as a trade union official I have been acutely aware of codes of practice and procedures and their statutory basis, particularly on employment law—but I will not go too much into that. With these amendments I am trying to probe the provisions in Clause 19 which says that we will amend electoral law. Again, that makes the point that the noble Lord, Lord Hodgson, made—we have a proliferation of electoral law and there should have been a much bigger piece of legislation to bring everything together so that people whose job it is to apply the law do not have to have this constant reference back to a whole series of requirements.

According to the Explanatory Notes, the clause says that

"the Electoral Commission may prepare guidance on election expenses for candidates. The amendments are to make it clear that the guidance can cover the application of the rules in relation to expenses incurred. This is to ensure that the codes of practice are sufficiently broad and fully serve the purpose of explaining the rules on spending."

One issue is that we go from codes to guidance. What is what? It is not altogether clear.

6.45 pm

Clause 19(3)

"amends the procedures to bring into force various codes of practice giving guidance in respect of election expenses under PPERA and the RPA"

to ensure a consistent approach. I have no objection to that, and it says that it will be

"brought into force by a statutory instrument with no further parliamentary procedure."

I am trying to elicit—it was raised in the previous debate—when such codes of practice are issued, because there is a requirement to regularly update them. Can we build in the provision that there will be a requirement to renew the codes? I suggested that they must be renewed at least every 10 years.

I stress that it is not only about the parliamentary procedures and the status of these codes and whether they are introduced by statutory instrument, which the Bill provides for, but the statutory requirement to consult on them. I agree that the Electoral Commission is the appropriate body to prepare them, and I accept that it has a requirement to consult. However, given the other elements of the Bill, there should be an obligation through the Secretary of State to ensure that there is proper consultation. Bearing in mind the previous discussion on notional expenditure and the fact that expenditure is not just limited to political parties, that consultation should not be limited to political parties either and there should be a broader responsibility. I would like to see that in statute.

The other thing that Amendment 28A seeks to do, which again is legislation that I think everyone in the House would have preferred to have had, is to address how we increase transparency on expenses. That is what we are trying to generate a debate on here in terms of the reports that have been referred to but also the Electoral Commission's view on this. It comes

back to the necessity of ensuring that if we are trying to have a consistent approach here across all codes and all legislation, it is important to have a much greater focus on transparency, not just on reporting.

I hope that these comments will provoke the Minister to give some commitments, even if he is not prepared to accept the amendment—I have no doubt that he is not prepared to do that. We are trying to generate a discussion in which we may be able to get some more positive commitments from the Minister than we have so far had.

Lord Stunell (LD): My Lords, on Amendment 28B, which is about transparency, perhaps the Minister could comment on some of the recommendations in the CSPL report which related precisely to the point of transparency of election expenditure and its availability in electronic form so that it could be studied more widely and easily. Obviously, that clearly requires legislation and might well properly have been in the Bill.

Baroness Scott of Bybrook (Con): My Lords, these amendments from the noble Lord, Lord Collins of Highbury, relate to existing provisions in electoral law in respect of codes of practice on election expenses for candidates that the Electoral Commission may prepare.

We have included measures in Clause 19 to ensure that any code of practice on candidate spending from the Electoral Commission is sufficiently broad to fully serve the purpose of explaining the rules on candidate spending, which are set out in the Representation of the People Act 1983. We are making this change to put the scope of the guidance beyond doubt. It is important that the guidance is comprehensive, so that we can address concerns raised from across the political spectrum on notional expenditure.

Amendment 25B would require the commission to issue new guidance at least every 10 years. As the noble Lord said, the commission is already able to amend any such code as required from time to time and must reflect the rules as set out in law. Clearly, the Electoral Commission is expected to keep up to date all guidance, including such a code of practice, and revise it as far as necessary to reflect changes in the law. Therefore, there is no need to legislate in such a rigid fashion.

Amendment 25C would require the Secretary of State responsible for approving the code to consult on that code before its approval. It is for the Electoral Commission to consult whomever it considers reasonable to consult before it submits a draft to the Secretary of State. The Secretary of State can then accept it, with or without modification, and must lay it before Parliament. It is then down to Parliament to consider the code laid before it and decide whether or not to approve it.

Amendment 28A would require the Secretary of State to publish within 12 months of Royal Assent draft legislation to amend the 2000 Act

"for the purposes of increasing the transparency of expenses".

I say with the utmost respect to the noble Lord that that is quite an imprecise instruction to the Secretary of State. Transparency of electoral expenses is a cornerstone of the UK's electoral system. Electoral law already has a robust set of controls and reporting requirements which ensure that spending during election campaigns is transparent, and the Bill supports that. Political parties, recognised third parties and candidates are already required to report their election spending, and this includes money they spend on digital campaigning, an issue raised by the noble Lord.

Lord Stunell (LD): I apologise if I was misunderstood. I was referring not to digital campaigning but to the digital submission of election expenses. At the moment, they are often kept in a cupboard in the returning officer's office and are not accessible in any way. There are also issues of data redaction, and so on, which make it more complex.

Baroness Scott of Bybrook: I will take that back and get an answer for the noble Lord. It is an important issue, as the way we will do elections in future will be very different because of new IT.

As I was saying, the new digital imprints regime will also improve the transparency of digital campaigning, requiring those promoting campaign content online, paid and unpaid, to clearly show who they are. With that said, I ask the noble Lord to withdraw his amendment.

Lord Collins of Highbury (Lab): I thank the Minister for her comments. Of course, I am trying to get on record some political points here, so I am going to repeat them. I understand the statutory requirements for consultation by the Electoral Commission, but there is often a failure to consult beyond the political parties, and we need to ensure that that is properly addressed. The noble Lord, Lord Stunell, made a very good point about transparency: if I wanted to look into a particular record, it is extremely difficult to do so, and there are ways to make it easier.

In later debates we will return to the issue of transparency, particularly when we get to Clauses 26 and beyond, but in the light of the Minister's comments, I beg leave to withdraw my amendment.

Amendment 25B withdrawn.

Amendment 25C not moved.

Amendments 26 to 28

Moved by ***Lord True***

26: Clause 19, page 29, line 25, leave out subsection (2)

Member's explanatory statement

This amendment removes the amendment currently made by Clause 19 in relation to paragraph 14A of Schedule 4A to the Representation of the People Act 1983.

27: Clause 19, page 29, line 37, after "8A" insert ", other than an order of the Welsh Ministers"

Member's explanatory statement

This amendment secures that the amendment made by Clause 19(3) in relation to the procedure for orders under paragraph 3(7) of Schedule 8 or 8A to the Political Parties, Elections and Referendums Act 2000 does not apply where an order under either of those provisions is made by the Welsh Ministers.

28: Clause 19, page 29, line 37, at end insert—

"(4) In subsection (4C) of that section, for "(3)" substitute "(3)(a) or (b)"."

Member's explanatory statement

This amendment secures that the amendment made by Clause 19(3) in relation to the procedure for orders under paragraph 3(7) of Schedule 8 or 8A to the Political Parties, Elections and Referendums Act 2000 does not apply to orders made by the Scottish Ministers.

Amendments 26 to 28 agreed.

Clause 19, as amended, agreed.

Amendment 28A not moved.

Clause 20: Authorised persons not required to pay expenses through election agent

Amendments 29 and 30

Moved by ***Lord True***

29: Clause 20, page 30, line 7, after "incurred" insert ", otherwise than in relation to a local government election in Wales,"

Member's explanatory statement

This amendment confines the effect of the amendment made by Clause 20 in relation to section 73(5) of the Representation of the People Act 1983, so that it does not apply to expenses incurred in relation to local government elections in Wales.

30: Clause 20, page 30, line 10, leave out subsection (2)

Member's explanatory statement

This amendment removes the amendment currently made by Clause 20 in relation to section 73 of the Representation of the People Act 1983 as it applies in relation to local government elections in Scotland.

Amendments 29 and 30 agreed.

Amendment 30A

Moved by ***Lord Khan of Burnley***

30A: Clause 20, page 30, line 23, at end insert—

"(4) Within 12 months beginning with the day on which this Act is passed, the Secretary of State must publish a statement on the application of this section in—

(a) England;

(b) Wales;

(c) Scotland;

(d) Northern Ireland."

Member's explanatory statement

This amendment is intended to probe the application of Clause 20 in devolved administrations.

Lord Khan of Burnley (Lab): My Lords, it is with great pleasure that I introduce Amendment 30A on behalf of my noble friend Lord Collins of Highbury. The intention of the sole amendment in this group is to probe the application of Clause 20 in devolved Administrations. The purpose of the clause is to ensure that expenses incurred under Section 75 by a third party do not have to be paid by the election agent. This is achieved primarily through amendments to Section 73 of the Representation of the People Act 1983. Ministers have previously explained that this means that they are able to both incur and pay for authorised expenses under Section 75, rather than the expenses being paid through the agent of the candidate they are promoting. As a result, there will be greater clarity to third parties who have been authorised by a candidate or agent to promote them. I am sure the whole House will agree that greater clarity is important, especially considering the complexity of electoral law, including the system of election expenses. However, I should be grateful if the Minister explained in what different ways this will affect elections in each of the four nations of the United Kingdom.

The development of separate legislatures since the 1990s has seen the gradual transfer of powers to Wales, Scotland and Northern Ireland. This has included powers relating to the holding of elections, which has also meant that, over time, there have been disparities in the way that elections take place across the four nations. Most strikingly, the voting system differs, which in turn has created broad differences in how each legislature is constituted, but the variations go far beyond the surface.

There are many more subtle differences at a granular level, but it is also worth mentioning that the differences between Wales, Scotland, Northern Ireland and England originated before even the first devolution settlements. This is evident from even a brief examination of Section 75 of the Representation of the People Act 1983, which is amended by this clause. This section, which deals with the narrow matter of prohibition of expenses not authorised by an election agent, includes technical references to how this should not mistakenly restrict certain publications and so on. Subsection (1ZZA) clarifies that this includes Sianel Pedwar Cymru, more commonly known as S4C, as well as the British Broadcasting Corporation, more commonly known as the BBC. Ultimately, this illustrates that devolution has created huge complexities across the statute book and, on the sensitive issue of elections, the Government must be considerate of that.

On our previous day in Committee, a pertinent point was raised by my noble friend Lady Hayman of Ullock, who explained to the House that, out of more than 350 legislative consent Motions, consent had been denied just 13 times. Given that this Bill is subject to one of those 13 denials, the House and indeed the Government should be especially considerate of how the remaining clauses could inadvertently have consequences for the devolved nations. As my noble friend also pointed out, the Minister previously expressed his regret at the decision to withhold consent; this disagreement should also be kept in mind when considering the implications of different clauses of the Bill in Wales, Scotland and Northern Ireland.

I hope that the Minister will use this opportunity to explain to the Committee what, if any, consequences she foresees of Clause 20 for the devolved nations. I beg to move.

7 pm

Baroness Scott of Bybrook (Con): My Lords, the Bill delivers on the Government's manifesto commitment to secure the integrity of elections, ensuring that they remain secure, fair, transparent and up to date. The UK Government undertook extensive engagement with the devolved Administrations in preparing the policy and drafting the legislation. For a number of measures that are within devolved competence, the UK Government considered that a co-ordinated UK-wide approach would have been beneficial by ensuring consistency and operability for electoral administrators and those

regulated by electoral law, and strengthening protection for electors and relevant political actors. It is therefore regrettable that, while the Government sought legislative consent for these measures, the Scottish Parliament has not granted such consent and the Welsh Government have recommended that the Senedd does not grant legislative consent to these measures.

This amendment would require the Secretary of State to make a statement on the application of Clause 20 in devolved Administrations. This measure will apply only to candidates at reserved elections, and the Scottish and Welsh Governments could choose to replicate these measures in respect of elections within their legislative competence. For clarity and reference, I remind noble Lords that subsections (2) to (7) of Clause 18 make equivalent amendments in respect of other campaigners, including political parties.

We are respecting the request of the devolved Governments by limiting this power in application only to elections within the UK Government's legislative competence. Clause 25 is necessary because it is important that new categories of campaigner can be added to the list if necessary. This is because the introduction of the restriction on third-party expenditure in Clause 24 means that any category of campaigner not on the list will be significantly restricted in their ability to campaign by not being able to spend more than £700.

The relevant provisions will apply only to matters of reserved or excepted elections, and the Bill makes an important clarification, so that candidates and their agents can have full confidence about their legal responsibilities and do not need to fear being responsible for benefits in kind of which they had no knowledge. The Scottish and Welsh Governments could choose to replicate these measures within their legislative competence.

Finally, I will reiterate that the Electoral Commission will be responsible for preparing guidance on notional expenditure which will support those seeking to contest elections and enter public life throughout the whole of the UK. With that said, I ask the noble Lord to withdraw his amendment.

Lord Khan of Burnley (Lab): I thank the Minister for that comprehensive response. Just to reiterate, we will continue to have discussions around devolution, as it is affected by many parts of this Bill. In the meantime, I beg leave to withdraw.

Amendment 30A withdrawn.

Clause 20, as amended, agreed.

Amendment 30B not moved.

Clause 21: Declaration of assets and liabilities to be provided on application for registration

Amendment 30C

Moved by ***Baroness Hayman of Ullock***

30C: Clause 21, page 30, line 38, leave out "£500" and insert "£450"

Member's explanatory statement

This amendment is intended to probe the £500 limit.

Baroness Hayman of Ullock (Lab): My Lords, we have now come to the seventh group of amendments, where there are two amendments, Amendment 30C, in the name of my noble friend Lord Collins, and Amendment 31, in my name. Both amendments are probing amendments to Clause 21, which concerns the registration of parties and considers the declaration of assets and liabilities to be provided on application for registration.

One thing that the clause does is introduce the requirement that new political party registrations will have to be accompanied by a declaration that the new party does not have assets over £500 on registration. If it does have assets of over £500, it will be required to produce a record of those assets and liabilities. The amendment looks at the figure of £500 and suggests that it should be changed to £450. The purpose is simply to probe the reasoning behind the figure of £500 and to ask for some information about how that figure was arrived at, whether there was a precedent, and so on.

One thing that I am aware at in looking at the figure of £500 is that the Electoral Commission's 2018 report, *Digital Campaigning: Increasing Transparency for Voters*, which I am sure we will debate later on when we get to the digital campaigning part of the Bill, recommended that all new parties should submit a declaration of assets and liabilities over £500 on registration. I wondered whether perhaps that was where the figure came from; it would be useful to understand. Obviously, those recommendations were intended to increase the transparency of digital campaigns and help prevent foreign funding of elections and referendum campaigns. So this is really to probe government thinking: did it come from this group and will be looked at and discussed when we get to the digital campaigning part of the Bill? It would be helpful at this stage to know that.

My Amendment 31 is, again, a probing amendment, looking at the proposals amending Section 28(8) of PPERA about the length of time that the copy of the record of assets and liabilities provided by the party should be kept available for public inspection. The Bill says that this should be for

"such period as the Commission think fit".

My amendment suggests replacing that with 20 years, as we felt that that seemed like a reasonable amount of time and gave more clarity and detail as to how long a record would be kept available for public inspection. Again, I would be interested to hear from the Minister how that wording came to be decided on and what the criteria are that the Electoral Commission will use to determine a fit amount of time. I do not know whether there is a precedent anywhere else in legislation that has guidance for a fit amount of time. Will the Government be providing guidance on that issue? Are we out of the ball park with 20 years, or are we in the right place? Are there any other areas of electoral law—or similar law, if not specifically electoral law—that the commission would use as some kind of comparison when looking at decisions on that?

I read the Explanatory Notes to see whether there is anything further on this, but there did not seem to be any more information than what is already in the Bill. It would be helpful to get a better understanding of

[Baroness Hayman of Ullock]
the Government's thinking on these points, how they intend to take that forward, how they will work with the Electoral Commission and what kind of guidance there might be.

Baroness Noakes (Con): My Lords, I have one further question to add to the questions that have been put to the Minister. New subsection (3C), which will be introduced by Clause 21, refers to calculation of assets and liabilities. Noble Lords will be aware that, as an accountant, I get interested in how assets and liabilities are measured. I understand the concept of net assets, which is assets minus liabilities, and the concepts of gross assets and gross liabilities. What I do not understand is the concept in new subsection (3C)(c) of assets plus liabilities. Under this, if a party had assets of £255 and liabilities of £250—that is, they had net assets of £5—adding the assets and liabilities together would give a figure of over £500, which would bring it within the scope of the new subsection, which, frankly, I do not understand.

Lord Stunell (LD): My Lords, I will comment on Amendment 31, which is about record-keeping. I return to the point I made a few minutes ago: it is about not just keeping the records but access to the records that have been kept. There are plenty of "publicly available" records that are not actually publicly available in real life. Election expenses are a case in point: GDPR has added an extra layer of complexity because they often contain personal details, bank details, addresses et cetera that ought not to be transmitted to other persons. Clearly, these records might well come within the same purview. I do not seek a detailed reply from the noble Baroness as that would be quite unfair, but I hope that, as we proceed, the Government will be able to illustrate that they have considered carefully issues of record-keeping, and, indeed, how the transparency that goes with record-keeping will be maintained in the current and projected circumstances.

Baroness Scott of Bybrook (Con): My Lords, as part of the registration process, political parties are not currently required to submit a declaration of their assets or liabilities. This information becomes available only in their first annual statement of accounts published on the Electoral Commission's website. Clause 21 brings forward this important transparency to the point of registration.

The noble Lord, Lord Collins, tabled a probing amendment seeking to understand why the threshold for this declaration is set at £500. I am pleased that the noble Lord has highlighted this, and I point to the fact that this measure, including the £500 threshold, was first recommended by the Electoral Commission in its 2013 report.

Baroness Hayman of Ullock (Lab): If it was a 2013 report, and thinking of inflation, I wonder whether that should have been reconsidered, to come back to an earlier discussion.

Baroness Scott of Bybrook (Con): The noble Baroness has now undermined the argument about going up rather than down. I have checked that, because I know the noble Baroness mentioned 2018. I have 2013, but I will clarify that. It was also more recently recommended in the CSPL's July 2021 *Regulating Election Finance* report, which is more up to date. It would not be proportionate to require parties with assets below £500 to submit this declaration.

On a similar topic, the noble Baroness, Lady Hayman, tabled a probing amendment to understand why the clause specifies that the Electoral Commission should make this statement available for as long as it sees fit. This is simply a matter of consistency with the existing approach to assets and liabilities declarations contained in a party's annual statement of accounts. Under Sections 45 and 46 of PPERA, the commission is able to keep documents, including the annual statement of accounts, for

"such period as they think fit."

Therefore, this is simply a technical provision, enabling this first assets and liabilities declaration to be compared with various subsequent records provided by political parties in their annual statements of accounts.

I will write to my noble friend Lady Noakes on her very interesting question, to which I would like to know the answer as well. I will place a copy in the Library so that we are all aware of it. That said, I urge noble Lords not to press these amendments.

7.15 pm

Baroness Hayman of Ullock (Lab): I thank the Minister for her response. Like her, I thought that the noble Baroness, Lady Noakes, asked an extremely interesting question that did not occur to me when I read through the Bill. It was a very thoughtful question to take forward. I am interested to see where that goes.

The noble Lord, Lord Stunell, made an important point about access to records and transparency of record-keeping. It is important that we all take that on board. The Minister gave a clear response on the reasoning behind this.

On my Amendment 31, which would delete the phrase

"such period as the Commission think fit",

it is interesting to note that this is consistent with what PPERA says. I was not aware of that, so I thank the Minister for that. I wonder whether there is any guidance as to what it means—I have no idea whether it is five or 50 years. It would be interesting to know a little more about that and what happens in practice, so that there will be more information in that area as we take this forward.

Baroness Scott of Bybrook (Con): I will endeavour to find out exactly what was behind that and let the noble Baroness know, and I will also address the point about transparency and access to all these figures, because that is important. It is no good keeping them unless they are easily available to any person who wants to see them. We will take that back and respond.

Baroness Hayman of Ullock (Lab): I thank the Minister for that clarification. I look forward to her response. I beg leave to withdraw my amendment.

Amendment 30C withdrawn.

Amendment 31 not moved.

Amendment 31A

Moved by ***Lord Collins of Highbury***

31A: Clause 21, page 31, line 34, at end insert—

"(8D) The Commission must refuse an application by a party under this section if assets are declared which are designated under the Sanctions and Anti-Money Laundering Act 2018."

Member's explanatory statement

This amendment is intended to probe the relationship between sanctions and the registration of parties.

Lord Collins of Highbury (Lab): My Lords, this is a probing amendment, but it is highly topical. I am trying to see the relationship between the registration of parties and the sanctions legislation that we recently adopted. Following yesterday's consideration of the fast-tracked Bill, Liz Truss plans to name even more people. It would certainly make it easier for Ministers to impose sanctions on those with Kremlin links. One of the things we addressed last night was the loopholes that have allowed oligarchs and kleptocrats to evade scrutiny. They have been quite successful in hiding their assets, certainly property—an issue we have discussed for quite a long time.

One of the things that I have been banging on about quite a bit is the Russia report and its recommendations on security risks to our democracy from interference from foreign powers and how we address that issue. We addressed this at Second Reading. It is not just some of the messaging and social network-type interference which we have seen, particularly in the US but also here, but about how our political parties are funded.

Boris Johnson told the House of Commons that

"it is very important for the House to understand that we do not raise money from Russian oligarchs."—[*Official Report*, Commons, 23/2/22; col. 313.]

For many of us, it was very difficult to take that remark seriously when we look at some of the records that have been exposed. It is obviously impossible for someone with only Russian nationality, however rich, to donate legally to a United Kingdom political party, but what has undoubtedly happened is that a series of people with dual UK/Russian nationality, or with significant business links with Russia, have donated heavily to the Conservatives in recent years. Based on electoral information, Labour has estimated that donors who have made money from Russia or Russians have given £1.93 million to the Tory party or to constituency associations since Johnson became Prime Minister. In the other place, Ian Blackford of the SNP referred to the Conservatives having raised £2.3 million from Russian oligarchs.

I recognise that "oligarch" is a loose term associated with people who generally made their money from the financial free-for-all of the post-Soviet, Putin era, but those people often keep a very close link with the Russian President. One reason the legislation is so important is the connections. You can have a permissible donor who is linked very closely to someone who is not a permissible donor, and if the links to the assets and the finances are obscure it is difficult to follow the money, as Liz Truss said.

One of the biggest single donors to the Conservative Party is Lubov Chernukhin, who has donated £700,000. She has been a British national since 2011 and is married to Vladimir Chernukhin, a former deputy finance Minister under Putin. Documents published in the Pandora papers in October suggest that he was allowed to leave Russia in 2004 with assets worth about $500 million and to retain Russian business connections. Lawyers representing the couple say that none of the wealth was acquired in a corrupt manner and none of Vladimir Chernukhin's wife's donations was funded by improper means or affected by the influence of anyone else. That is extremely difficult to understand when you look at some of the documents in the Pandora papers published by the *Guardian*. Lubov Chernukhin is also notable for winning the prize of a game of tennis with Boris Johnson at the party's 2020 fundraising ball. It is not clear whether she has managed to get that prize yet.

That shows us the extent of foreign money coming into our political process and our political parties. The reason I am raising that on this clause is that we have yet to see political parties being established for the purpose of undermining the political system we have. I anticipate all kinds of reactions from friends of Putin—to put it that way—that we have not seen before. If our sanctions legislation gets stronger and we have the economic crime Bill that we anticipate seeing in the next Session, we may see this hidden money going in different ways that will perhaps have less scrutiny but very strong connections. I am probing this to see what the Government have thought of in terms of transparency in the establishment of political parties and what they are going to do about the broad recommendations of the Russia report, which they have not really taken into account. We will certainly be returning to the question of donations to political parties later in consideration of the Bill, but I thought that this was an opportunity to look at whether there has been any risk assessment by the Government of how political parties that could fundamentally undermine our system may be established and funded. I beg to move.

Lord Wallace of Saltaire (LD): My Lords, I am conscious that there are other democracies in Europe which have parties on the right that have admitted to receiving money from Russia as loans or as grants. Happily, this country is not in that position, but a number of shadows hang over our politics and we have got quite close to it on a number of occasions. It currently affects the Government because they refused to publish the evidence the Intelligence and Security Committee collected on foreign interference in British politics four years ago and they have not yet published the evidence on the suitability of those who came in on the golden visa scheme between 2000 and 2015. That report was commissioned four years ago. If one goes back to the referendum campaign, so far as I am aware, we still do not know where the largest donation to the Brexit campaign came from, although I had one very odd conversation with a senior member of the

[Lord Wallace of Saltaire]
City of London who told me that everyone knew that it came from a particular foreign country. There are issues here. We shall return to them when we get on to donations.

I mark in general that this is yet another reason why we should be lowering the limits on campaign spending at national and constituency level, not raising them, because money corrupts politics. I think that the Conservative Party has come close to corruption in the way it has very successfully expanded its fundraising, with the creation of a donors' club. I have read on the front page of the *Times* that donors have said that they are unhappy about what the Prime Minister is doing on this, that and the other, and that clearly shows that donors influence politics to a considerable extent in the Conservative Party.

Yes, of course, we are all guilty. My party has also accepted one or two large and very welcome donations which were a little bit questionable. That is because we are so desperate for money for campaigning—and it is part of the reason why I agree that we should be lowering limits. So, I support the probing amendment from the noble Lord, Lord Collins. We will return to this on a later day in Committee. It is a fundamentally important issue for British politics, because part of what is corroding public trust in politics at present is the deep suspicion that money buys Ministers.

7.30 pm

Lord Scriven (LD): My Lords, I too rise to support the probing amendment in the name of the noble Lord, Lord Collins. Things are moving fast and this Bill needs to keep up, particularly over sanctions. For example, last Thursday Rosneft CEO Igor Sechin was sanctioned by the UK. One of the Conservative Party's biggest donors is an investor in this Russian state-owned oil firm. The energy firm Mercantile & Maritime, which has a UK subsidiary, gave the Conservatives £500,000 during the 2019 election campaign and is a co-investor in the massive Rosneft oil project. Rosneft is close to Vladimir Putin and has been supplying fuel to Russia's troops in Ukraine.

The Secretary of State for Business made it very clear that he pressurised the British UK energy firm BP over a similar deal with this oil company, prompting BP to announce its exit from the partnership. However, the Government have been silent about the MME link. They say that this is because it is not a British company, but MME does have a British subsidiary, which clearly means that it can donate to British political parties, both at and outside election time. So, my question to the Minister is this: how would donations by subsidiaries such as MME be recorded, or the relationship between a sanctioned company and one of its subsidiaries be highlighted, in political party donations?

Lord True (Con): My Lords, I am grateful to the noble Lord, Lord Collins, for initiating this debate, which has been interesting. One of the most memorable moments, perhaps, was when the noble Lord, Lord Wallace of Saltaire, suggested that the British people voted to leave the European Union because of Vladimir Putin. If that is the official view of the Liberal Democrats—

Lord Wallace of Saltaire (LD): My Lords, I in no way suggested that. I merely remarked that the question of where the largest donation to the Brexit campaign came from has not been explained, which is entirely different. I trust that the Minister is also concerned about that, rather than making jokes about it.

Lord True (Con): I made no joke. I drew attention to the noble Lord's remarks, and they will stand on the record. So far as this matter is concerned—and I have heard the cascade of innuendo ending with the remark that Ministers can be bought, which will also lie in *Hansard*—I move on to a serious response to a serious—

Lord Scriven (LD): The Minister talks about inuendo; can he say which innuendo? What I spoke about is on the record: it is a clear donation and the links between MME and Putin's state-backed oil company are clear.

Lord True (Con): I stand by the remarks I made in response to comments from the Front Bench of the Liberal Democrat party. I would like to—

Lord Wallace of Saltaire (LD): My Lords, I do not know whether the noble Lord reads the *Sunday Times*—perhaps he only reads the *Sunday Telegraph*—but the *Sunday Times* in the last two weeks has included a good deal of evidence on the role of the donors, access to Ministers and what one of the Conservative Party's largest donors has called "access capitalism". Perhaps he has missed all that.

Lord True (Con): My Lords, I was working on my allotment on Sunday morning. I will come to the point that was raised by the noble Lord opposite, which I take extremely seriously. It is a probing amendment but an important subject. I have discussed it with the noble Baroness and the noble Lord. I look forward also to engaging in discussions when we come to her amendments, which are on an analogous subject.

What the noble Lord suggests is, obviously, on the face of it, a good idea: that the commission should reject the application of a political party if its declaration of assets and liabilities demonstrates assets designated under the Sanctions and Anti-Money Laundering Act 2018. I absolutely recognise the importance of that regime, although a debate on its intricacies does not fall within the scope of this Bill. I do not make any complaints about that, however, and I am happy to address it because of the gravity and importance of the issue.

On the specific point the noble Lord raises—I will be brief—sanctions law is incredibly clear: all individuals and legal entities who are within, or undertake activities within, the United Kingdom's territory must comply with UK financial sanctions that are in force. This includes not only political parties but candidates and other types of campaigners listed in the relevant areas of the legislation. Where a person or entity is designated as subject to financial sanctions, the nature of the resulting restrictions means that the person's assets are frozen and consequently that person would be prohibited from using those assets for any purpose. This would include the funding of a political party.

While the Government entirely agree with the principle that sanctioned assets should not be used for the benefit of anyone—including prospective political parties, which we are discussing specifically on this amendment—we believe that the current sanctioning regime already provides for this and we remain to be convinced that an additional provision is required in this Bill. I am sympathetic to the noble Lord's intentions here. I believe that his point is already acknowledged but, in the light of the importance of the matter that he has raised, I will make doubly sure that that is the case. With that assurance, I hope he feels able to withdraw his amendment. I am ready to discuss the matter with him further, as we have already engaged.

Lord Collins of Highbury (Lab): I thank the noble Lord for that response. We will return to this issue. I opened my remarks with the *Russia* report. The Government have said that they have responded to every recommendation, but one remaining issue is interference in our political system. We will have a future debate on donations but it is important to focus on this specific issue. We will see things in future that we have not seen before in terms of attempts to undermine our system, and we have to be prepared for that. I was very pleased that the legislation went through—I would like to have seen even stronger elements to it—but even in today's *Guardian*, people are saying that many ways remain for oligarchs to get around transparency declarations, including not only offshore companies but "five close relatives", who can shift assets so that none of them reaches the 25% ownership level required. We know that people can try to get round these things, and we need to be absolutely vigilant.

I appreciate the Minister's comments, and that he will come back and speak to me further; in the light of that, I beg leave to withdraw the amendment.

Amendment 31A withdrawn.

Clause 21 agreed.

House resumed. Committee to begin again after 8.30 pm.

Shale Gas Production

Commons Urgent Question

7.40 pm

The Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy (Lord Callanan) (Con): My Lords, with the leave of the House, I shall now repeat in the form of a Statement the Answer given by my right honourable friend Greg Hands MP to an Urgent Question in another place:

"In response to Putin's barbaric acts in Ukraine and against the Ukrainian people, we need to keep all our energy options open. We have always been clear that the development of shale gas in the UK must be safe and cause minimal disruption and damage to those living and working in nearby sites. This is not a new position. Shale gas and new approaches could be part of our future energy mix, but we need to be led by the science and have the support of local communities. That was in our general manifesto, on which my honourable friend and I stood at the last election.

The pause on fracking implemented in November 2019 on the basis of the difficulty in predicting and managing seismic activity caused by fracking remains in place, and we will continue to be led by the science in our approach. We are clear that shale gas is not the solution to near-term issues. It would take years of exploration and development before commercial quantities of shale gas could be produced. Additionally, fracking relies on a continued series of new wells, each of which produces gas for a relatively short time. Even if the pause were lifted, there are unlikely to be sufficient quantities of gas available to address the high prices affecting all of western Europe and it would certainly have no effect on prices in the near term.

As the Business Secretary has said, we will continue to back our vital North Sea oil and gas sector to maximise domestic production while transitioning to cheaper, cleaner, homegrown power at the same time. We will shortly set out an energy supply strategy that will supercharge our renewable energy and nuclear capacity, as well as supporting our North Sea oil and gas industry."

7.42 pm

Lord Lennie (Lab): My Lords, the Government's consideration of fracking is a potentially dangerous and risky policy that neither addresses the real concerns about future affordable energy supplies nor contributes to achieving our net-zero targets. Surely, a better way to proceed would be to reintroduce government support for onshore wind as a cheap and generally reliable fuel source—it was abandoned by the then Conservative Government in 2015. Will the Government now reconsider this damaging decision by reinstating their support for major onshore wind farm developments?

Lord Callanan (Con): As the noble Lord is aware, there was a further contracts for difference round held in December and onshore wind was able to bid into it. We will be announcing decisions on that shortly.

Baroness Foster of Oxton (Con): My Lords, in 2014 Anders Fogh Rasmussen, the then NATO Secretary-General and former Prime Minister of Denmark, told a Chatham House meeting in London that Putin's Government were behind attempts to discredit fracking across Europe. He said that Russia had

"engaged actively with so-called non-governmental organisations - environmental organisations working against shale gas - to maintain European dependence on imported Russian gas."

In 2017, the US media and Congress picked this up too. The propaganda and scare tactics also became prevalent in the UK. If energy security was not a concern before, it certainly should be now. Does my noble friend agree with me that it is vital that we need to become energy self-sufficient sooner rather than later, and that we should no longer rule out shale gas extraction in the United Kingdom?

Lord Callanan (Con): I thank my noble friend for her remarks. I suspect that she is probably right that there was an unholy alliance between Putin and some of the more extreme end of our environmental movement. Of course, both had the same objective in mind: to rule out shale gas production. Nevertheless, it is important

[Lord Callanan]
to recognise that there were some serious problems caused by the attempted fracking in Lancashire. I take the point which my noble friend is making. We are not ruling it out. If the scientific objectives can be overcome, and the tremors which were caused can be solved, it is potentially an option for the future.

Lord Oates (LD): Is the Minister aware of the remarks made this afternoon upstairs by the former Kenyan Prime Minister and current presidential candidate, Raila Odinga, about the impact of climate change on his country, including increased droughts and flooding and deteriorating food security? Does the Minister share my concern that those advocating fracking do not seem to recognise that it would provide no solution to the current energy crisis, would lock us into dependency on fossil fuels and takes no account of the climate emergency? In this situation, is it not the number one priority to reduce the amount of energy which we are wasting?

Lord Callanan (Con): I have not seen the remarks to which the noble Lord is referring. Of course, we still have our commitments to net zero, which is now a legally binding commitment, but the reality of this situation, which we have debated many times before, is that there is a need for fossil fuels during the transition—unless we are proposing to disconnect everyone's gas boiler and stop them driving their cars tomorrow, which I do not think is anyone's sensible position. We need fossil fuels during the transition. It is unarguable that it makes much more sense to try to get those fossil fuels from our own production, rather than relying on Putin or other unstable parts of the world. Having said that, we also need to progress our nuclear generation capacity and invest in renewables, which we are doing. We are talking about quadrupling our renewables capacity from offshore wind alone, from something like 4 gigawatts up to 10 gigawatts. We need to be doing all those things; we need a diversity of supply.

Baroness Bennett of Manor Castle (GP): My Lords, I welcome elements of this Statement from the Government on fracking, particularly the reference to the support of local communities. This implicitly acknowledges the huge amount of work and passion that was put in by anti-fracking campaigners from Balcombe to Preston New Road, and many other places. However, the last two sentences of this Statement essentially repeat a desire to maximise North Sea oil and gas production. Last year, the Government, as the chair of the COP 26 climate talks, commissioned the International Energy Agency to produce a report which advised that no new fossil fuel exploration or development should take place from this year, if the world is to stay below 1.5 degrees centigrade. Does the Minister agree that this Statement does not line up with maximising North Sea oil and gas?

Lord Callanan (Con): I am slightly nervous now if the noble Baroness is welcoming a Statement which we have made. We might have made a mistake in our energy policy—sorry, I am being facetious.

The difficulty with the Green Party's position is that they say that everything should be done with renewables, but that does not give us solutions to the problems in the near term. This is a gradual transition. We already have some of the largest quantities of offshore wind and renewables in the world. I accept that the position of the noble Baroness is that we should go even further and faster, but we are progressing as fast as we possibly can. We have huge investments going into renewables. However, we need fossil fuels in the short term—unless the Greens are also proposing that we should stop driving our petrol and diesel fuel vehicles and disconnect our gas boilers. This is a gradual transition; there is a need for fossil fuels during the transition, and the independent Committee on Climate Change has accepted that. Even the noble Baroness might think that it was probably more sensible to gain those fuels during the transition from our own domestic production, rather than from Putin.

Lord Teverson (LD): My Lords, I also welcome the Minister's Statement. It is good to hear what the Minister said in general. Historically, I have not been that opposed to fracking done under absolutely the right conditions. However, he is absolutely right that the development period would now be far too long. History has moved on, and gas has to be cut down rather than supplied locally. For renewables developments such as offshore wind, which the Minister mentioned, the gestation period for those sort of investments is still something like 10 to 12 years from when the Crown Estates goes out and makes an offer. Does the Minister have any views about how that period can be cut down, without in any way compromising on the environmental investigation aspect? It seems to me that we should be able to do that sort of stuff quicker.

Lord Callanan (Con): The noble Lord makes a good point; I think he has put his finger on the nub of the problem. Whenever there is a crisis in politics—and there is definitely a crisis at the moment—there is always a search for quick and easy solutions. Unfortunately, on energy infrastructure, there are no quick and easy solutions: these things take years, if not decades, to put into operation. We are progressing nuclear power, as indeed we should, but nothing is going to happen for a number of years—possibly not until the start of the next decade. We already have in motion the expansion that I mentioned earlier of offshore wind. We have the targets in place for 2030 and those developments are already proceeding.

The same problem occurs with the search for new licensing fields in the North Sea, if we push ahead with it: it will be a number of years before new fields can be developed. Even if we did progress shale, it would be a number of years—possibly a decade—before we would get meaningful quantities of gas out of the ground, even if we overcame all the environmental objections. I am afraid that there are no easy silver bullets to this problem. It is probably a silver buckshot: there are lots of different smaller-scale solutions that we will need to develop over a number of years.

The Lord Bishop of Durham: Will the Minister expand on the investment of microgeneration at local level? At Bishop Auckland, one of the local estates is having a massive transformation through solar being installed on all the rooms on that estate. Could not

more money be put into that? Let us forget fracking, to be honest, because it is not going to deliver us anything at any time.

Lord Callanan (Con): Yes, is the short answer to the right reverend Prelate's question. We are supporting microgeneration with feed-in tariffs et cetera, but we need to be cognisant of the scale of the problem. Microgeneration—solar panels, small wind turbines, small-scale running-water power, et cetera—will make a contribution, but it is unlikely to solve the problem in the meantime. We are talking about a few megawatts as opposed to the gigawatts we need in total. It would, however, make a contribution, and it is already making a contribution. Government policy is to support small-scale microgeneration, but it is unlikely to be a long-term solution to our problem.

National Shipbuilding Strategy
Statement

The following Statement was made in the House of Commons on Thursday 10 March.

"With your permission, Madam Deputy Speaker, I would like to make a Statement on behalf of my colleague the Secretary of State for Defence and shipbuilding tsar, concerning the Government's refresh of the national shipbuilding strategy.

The United Kingdom is a great maritime nation and shipbuilding runs in our blood. At the turn of the previous century, Britain built 60% of the world's ships and, although we are no longer the world's workshop, our shipbuilding industry remains a global leader in design and technology. It brings in billions to our economy and spreads wealth right across our country. Today, our maritime manufacturers are responsible for the state-of-the-art research vessel the RRS "Sir David Attenborough", and for constructing the most powerful surface ships ever built in Britain: the Queen Elizabeth-class carriers.

More than 42,600 people from Appledore to Rosyth owe their livelihoods to our shipbuilding industry, but we still need to strengthen its resilience. It is worth reminding ourselves that even in the digital age, some 95% of UK trade by volume, and 90% by value, is carried by sea. Given this dependence, it is vital that we continue to safeguard our access to global maritime trade, even as we open up our sails and seek out new markets and new sustainable technologies. That is why, in 2019, the Prime Minister appointed the Defence Secretary as the shipbuilding tsar. Since then, he has been working tirelessly across government to make our shipbuilding sector more productive, competitive, innovative and ambitious.

There has been real progress. Not only do we have much greater cross-Whitehall and industry co-operation, but we are doubling Ministry of Defence shipbuilding investment over the life of this Parliament to more than £1.7 billion a year. We have committed to procuring a formidable future fleet, including up to five Type 32 frigates, alongside the Type 31 and Type 26 programmes. We will grow our fleet of frigates and destroyers over the current number of 19 by the end of the decade. We have launched a competition to build a national flagship—the first ship of its kind to be built and commissioned in Britain—and last September we opened up the National Shipbuilding Office, a pan-governmental organisation that reports directly to the shipbuilding inter-ministerial group, is chaired by the shipbuilding tsar and is driving transformative change across our organisation.

Today, I am delighted to announce that we are going one step further by publishing our refreshed national shipbuilding strategy. Drawing on the multitalented skills of the Government, industry and academia, and backed up by more than £5 billion of government investment over the next three years, the plan creates the framework for our future UK maritime success. It contains five essential elements. First, it radically extends the scope of our existing shipbuilding strategy. I may be standing here as a Defence Minister, but rest assured that the plan is as much about commercial shipbuilding as it is about the Royal Navy. We are focused not simply on hulls alone but on internal systems and sub-systems.

Secondly, we are establishing a 30-year shipbuilding pipeline of more than 150 vessels, thereby offering a clear demand signal in respect of our future requirements. We know that a regular drumbeat of design and manufacturing work is vital, not just to maintain our critical national security capabilities but to drive the efficiencies that reduce longer-term cost. We are not just giving suppliers confidence in industry order books; we are going to give them greater clarity about our requirements too. Today, we set out our policy and technology priorities, from net zero commitments to social-value requirements.

We are determined to ensure that our vast shipbuilding programmes leave a lasting legacy that goes beyond the procurement of a new vessel for the Border Force or the latest battle-winning warships, so we have made it a key requirement for shipbuilders to take account of social value, thereby ensuring not only that we deliver the capabilities that each department needs but that taxpayers' money is used to maximum effect. We support jobs, skills and investment and will establish a new social value minimum of 20% for competitions for Royal Navy vessels.

Thirdly, our strategy will accelerate innovation, enabling shipwrights and supply chains to unlock new manufacturing, production and clean maritime technologies. In recent times, the automotive industry has blazed a trail in the field of sustainability, investing in everything from electric to hydrogen and ammonia fuel technologies. But domestic shipping accounts for more emissions than the bus and rail sector combined, so when it comes to decarbonisation, it is high time that we made sure shipping does not end up in the slow lane.

In 2019, the Department for Transport published its *Maritime 2050* strategy, amplifying the power of UK maritime business clusters to foster a climate of innovation.

Last year's clean maritime demonstration competition underlined the sheer depth of the sector's potential, with 55 projects winning a share of £23 million to develop carbon-free solutions, such as hydrogen-fuelled

vessels and shipping charge points powered by offshore wind turbines. Building on that success, we will now make the competition a regular event, creating more opportunities for industry to bring cutting-edge technologies to market.

Alongside that news, I can announce today that the Department for Transport—I am delighted to be joined by the Minister of State at the Department for Transport, my honourable friend the Member for Pendle, Andrew Stephenson—has committed £206 million to develop a UK shipping office for reducing emissions, or SHORE, which will fund research into and the development of zero-emission vessels and help to roll out the infrastructure that enables the UK to achieve its goal of becoming a world leader in sustainable maritime technologies.

Fourthly, shipbuilding is a long-term investment, and the more we can do to shelter it from market storms the better, so the fourth aspect of our plan is about providing greater financial support for shipbuilders to win orders. Access to finance for underwriting contracts is an essential element of any shipbuilding enterprise. Alongside banks and working capital loans, the Government also have a role to play in helping to finance vessel contracts.

UK export finance already offers credit facilities to support British companies winning work overseas. To make UK shipbuilders more competitive, we are bidding for orders for new ships from domestic customers. The Department for Business, Energy and Industrial Strategy is now working up plans to underwrite contracts for UK shipbuilders building ships for UK operation. BEIS aims to launch this new home shipbuilding credit guarantee scheme in May.

Switching to exports, opportunity is opening up for suppliers to increase their market share. In 2020, we exported £2.2 billion-worth of ships, boats and floating structures. We believe that we should be able to grow our exports by 45% by 2030. To make that happen, we are opening a new maritime capability campaign office. Covering all aspects of the shipbuilding enterprise, from platforms to sub-systems, to the supply chain, it will use robust industry analysis of global markets to help suppliers reach untapped markets. Our success in the long term will hinge on the strength of our skills base.

This brings me to the final aspect of our plan. We are determined to develop the next generation of shipbuilding talent, so today we are establishing a UK shipbuilding skills task force. Led by the Department for Education and working in tandem with the National Shipbuilding Office and devolved Administrations, it will bridge skills gaps and learn from best practice, particularly in relation to new and emerging technologies. Above all, it will act as a megaphone for the varied and exciting careers that shipbuilding can offer up and down the country, from designing cutting-edge environmentally friendly ferries to developing propulsion systems for complex warships.

The building blocks of our refreshed strategy are settling into place. Our NSO and maritime capability campaign office are up and running. Our UK shipbuilding skills task force is accepting applications from today, and, in the coming months, we will be establishing a new shipbuilding enterprise for growth. Co-chaired by the chief executive officer of the National Shipbuilding Office and a senior industry executive, it will unite the finest minds in shipping to overcome some of the sector's toughest challenges.

In other words, today, we offer a powerful vision of what shipbuilding will look like in 2030. It is a vision of a supercharged sector with thousands of highly skilled workers; a vision to make this the country of choice for specialist commercial and naval vessels and systems, components and technologies; a vision that generates the increased investment to level up our nation; and a vision that will spark a British shipbuilding renaissance and inspire even more countries to seek out that "Made in Britain" stamp.

The framework is ready. Now we will be working with our superb shipbuilders, our supply chains and across government to help transform this great ambition into a prosperous reality. I commend this refreshed strategy and this Statement to the House."

7.52 pm

Lord Tunnicliffe (Lab): My Lords, the latest iteration of the Government's shipbuilding strategy is overdue. Funding contained in it was first announced two years ago. However, it is welcome, and I am grateful to the Minister for coming to the House this evening to answer our questions.

The Defence Select Committee's report last December highlighted how stretched the Navy's capabilities are, with a danger that it will not be able to cope with the increasingly complex international security environment. It warns that an unexpected crisis could break it. It is vital that the Government do what is needed to avoid that dire outcome. The report urges collaboration with the UK shipbuilding sector by providing an assured pipeline of work and actively intervening to support the modernisation of yards to support the delivery of new vessels into an expanded fleet capable of fulfilling the ambition of the integrated review.

However, the strategy does not confirm the total number of ships the Royal Navy will receive. Can the Minister confirm today how many Type-32 frigates and multi-role support ships will be built and delivered? Does the "more than £4 billion" of government investment over the next three years cover any of the cost of the 150 ships in the 30-year pipeline to which the Statement refers? How much of this is new money?

Beyond this, there are two major problems with the strategy. First, why does the strategy not promise a British-built by default approach to procurement? This, as the GMB and Unite have highlighted, will kill investment and put UK jobs and skills at risk. A commitment to ensure that ships are built in UK yards, with targets for using UK steel, would build resilience in our supply chains and protect our security.

Steelmaking is a crucial component of our national security and our ability to act in our own interest. What steps will the Government take to improve the public procurement of UK-made steel in shipbuilding in order to preserve and promote jobs that are of vital importance to steel communities and the UK's strategic independence? What is more, with foreign bidders supported by their own Governments, British shipyards

are not even able to compete on a level playing field. None of this feels in line with the Government's levelling-up strategy.

We know that a British-built by default strategy would create more jobs, but frankly, we do not know how many new jobs there will be a result of the strategy as it is. Can the Minister tell us? The Government seem to keep updating their excuses as to why we continue to procure from elsewhere, such as with a £10 million contract awarded to a Dutch yard last week. No other shipbuilding nation would act in this way. What the Defence Secretary has said is that fleet solid support vessels will be built by "British-led teams" following the decision to award the competitive procurement phase design contracts earlier this year. How is "British-led" defined? What percentage of the construction and manufacture of fleet solid support vessels will take place in British shipyards?

Secondly, the strategy does not tackle long-lasting issues of mismanagement and delivery at the Ministry of Defence. As it stands, no major shipbuilding programmes are rated on time or on budget by the National Audit Office. The number of projects rated amber or red is increasing. We know from previous experience how easy it is to underestimate both the resources and time needed for large contracts to be delivered. Can the Minister tell us what specific initiatives will be put in place to achieve on-time and on-budget outcomes? Moreover, while on the subject of contracts, I am curious about the minimum 20% weighting for social value that the strategy says will be applied for MoD shipbuilding competition. Can the Minister explain what this means in more detail? How will social value be assessed?

On a wider point, the strategy assumes a level of investment from the private sector into research, development and manufacturing. The mood seems to be that a forward-looking strategy providing a glimpse of the future to the sector will be enough to generate investment. I find this optimistic. Can the Government confirm their belief that the private sector will invest at the levels necessary without direct funding from Government? As I mentioned earlier, not having a British-built by default strategy makes this optimism even more farfetched. Is the Minister not concerned?

Those are my two main areas of concern, but I have some further questions on other aspects of the strategy. The strategy establishes the Maritime Capability Campaign Office within the Department for International Trade as the export arm of the National Shipbuilding Office. This will supposedly turbocharge UK shipping exports. Given that this has such a prominent role in the strategy, it is neither unexpected or unwelcome, but without a commitment to using UK materials and shipyards, it seems hollow. Can the Minister therefore indicate what role she expects exports to have in maintaining our shipbuilding industry? Without a commitment to using British materials, does she see the UK as simply a processing centre, to import materials from abroad and sell them on as finished vessels; or perhaps the idea is to contract foreign shipyards and then sell their finished products elsewhere, with the UK acting only as an intermediary?

Finally, with the Spring Statement now only eight days away, can the Minister confirm a big boost for defence funding, both to fulfil the ambition of the integrated review and to respond to the growing threat of Russian aggression?

Baroness Smith of Newnham (LD): My Lords, I agree with many of the comments and questions from the noble Lord, Lord Tunnicliffe. It is obviously welcome to have this refreshed *National Shipbuilding Strategy*, but one might wonder what has happened to the ships.

We recently looked at the Type 45s. Before we get to the actual shipbuilding, ship maintenance and repair perhaps need to be thought about, so I have one very direct question for the Minister. How many of our Type 45s are currently at sea? How many are in dock? How many are seaworthy? It is surely important for the UK's position in the world that we have ships available now, not in many years' time.

In particular, I wonder whether this shipbuilding strategy is as ambitious as it needs to be. The Statement says:

> "We have committed to procuring a formidable future fleet including up to five Type 32 frigates"—

as the noble Lord, Lord Tunnicliffe, asked, how many are envisaged?—

> "alongside the Type 31 and Type 26 programmes. We will be growing our fleet of frigates and destroyers over the current number of 19 by the end of the decade."—[*Official Report*, Commons, 10/3/22; col. 505.]

What does that actually mean? Will we have 20 ships by the end of the decade—an additional one? What sort of message do the Government think that sends to the international community? The Prime Minister currently says that he will lead activity against Russia. If we have only 20 ships by 2029—or does that mean 2030?—I am not sure that is terribly credible.

We have a quotation in the strategy from the Prime Minister:

> "If there was one policy which strengthens the UK in every possible sense, it is building more ships for the Royal Navy."

That is clearly welcome—as would be increasing the number of our troops—but, realistically, what are the projections for the size of the Royal Navy? How far do the Government plan for these to be British-made ships with British steel? How far do they really think any defence expenditure settlements will enable us to deliver on time? As the noble Lord, Lord Tunnicliffe, pointed out, it is very rare for defence procurement to arrive on time and on budget. With the current rates of inflation, given that defence inflation normally rises much faster than ordinary inflation, what is the realistic prospect of our increasing the number of ships and doing so on time?

The Minister of State, Ministry of Defence (Baroness Goldie) (Con): My Lords, I first thank the noble Lord, Lord Tunnicliffe, and the noble Baroness, Lady Smith, for their observations. Although their questions, quite rightly, are penetrating, I think there is an understanding that this is an exciting document. It is not empty, vacuous flim-flam, but a very serious, holistic approach to how within the United Kingdom we sustain and grow a prosperous indigenous shipbuilding industry. I remember that one of the first tasks I had as a Defence Minister, back in 2019, was to present to your Lordships

[Baroness Goldie]
the review by Sir John Parker of the 2017 shipbuilding strategy. I remember thinking at the time that the review document was exciting and visionary.

Coming from Glasgow—or coming from Renfrewshire, near Glasgow—and having personally visited Upper Clyde shipbuilding yards when they were on the brink, I do wish to pay tribute to the trade union movement operational at the time for its assiduous work in making sure that politicians understood what the threats and challenges were. They were well informed and persuasive and I thought they did a splendid job in persuading the political process that, back then in the early 2000s, we had to make a better job of how we approached shipbuilding. I know noble Lords will remember Kvaerner on the Clyde, which was completing one order when there was no certainty about where the rest of the work was coming from. As I say, I pay tribute to the trade union movement for its determined and resolute work to try to get greater sense to prevail.

That is why, stepping forward to what Sir John Parker did in 2019, I drew a deep breath of fresh air and thought that this was really going somewhere. I have to say to your Lordships that I think this shipbuilding strategy really does pick up the baton and run with it. What I see in here are the components for a serious, well-funded, well-researched, well-supported, buoyant, competitive shipbuilding industry within the UK, and we should all be heartened and encouraged by that.

The noble Lord, Lord Tunnicliffe, echoed by the noble Baroness, Lady Smith, asked about the size of the Navy. As they are both aware, there are good things happening. For the first time in 30 years, unbelievably, we have two different types of frigate being built simultaneously. We are satisfied that the number of Royal Navy frigates will be sufficient, and we do not anticipate that number dropping below 10 this decade. That is because, in addition to the Type 23s currently serving, we will have the first Type 26s coming in, and we will start to see the Type 31s being delivered, which will all be delivered by 2028. I would observe to your Lordships that the level of shipbuilding investment by the MoD is hugely significant and puts flesh on the bones of this strategy. MoD shipbuilding will double over the life of this Parliament and rise to over £1.7 billion a year. That will certainly allow us to increase the number of frigates and destroyers beyond the 19 we currently have by the end of the decade.

The noble Lord, Lord Tunnicliffe, asked specifically about the Type 32. That is an exciting project. It is at the moment still at the concept stage, but it will be the first of a new generation of warships, with a focus on hosting and operating autonomous offboard systems. So that is a really innovatory, visionary concept. The early preconcept phase has commenced; the focus is now on developing the operational concept, and the procurement programme strategy will be decided following the concept phase, which has not yet been launched. I can confirm these ships will be UK-built, with the exact shipyard, obviously, still to be determined—that will be subject to commercial competition.

The noble Lord, Lord Tunnicliffe, also asked about the Fleet Solid Support. It is an interesting concept. It will be either a sole British build or a consortium, but the predominant interest will be British. The noble Lord asked how that fitted in with levelling up and the union. I would say to the noble Lord that I was very interested to see the graphic depiction of the map in the document itself, because it gave one of the most visual confirmations of just how critical, right across the United Kingdom, shipbuilding is. It is not just the yards building the ships; it is the huge number of small and medium-sized enterprises that are in the supply chain for that activity. All that plays its role in levelling up and in adding value to communities, which can all expect benefit from the fruits of this strategy rolling out.

The noble Lord, Lord Tunnicliffe, asked about the role that the private sector will play. As he will be aware from the strategy, there has been close consultation with the industry, as is absolutely right. We will establish a shipbuilding enterprise for growth, which will be an industry-based organisation, and we will learn from similar approaches taken in sectors such as the automotive, aerospace and space industries how to take that forward. The private sector has an important role to play in this but, as I say, it has been engaged throughout the refresh of the *National Shipbuilding Strategy* and is absolutely engaged on the vision contained in it.

It is also interesting to look at the definition of "shipbuilding enterprise" because it gives a good encapsulation of what we are talking about. For the purposes of the refresh:

> "The term includes the design; build; integration; test and evaluation; repair; refit; conversion; and support of warships; commercial vessels; workboats; leisure vessels; systems and sub-systems."

That is a huge range of activity, which, as I said earlier, reaches out right across the United Kingdom.

The noble Lord, Lord Tunnicliffe, asked about exports, which are an important component. As he is aware, in relation to the Type 26, we have had an export of design to Canada and Australia. It is important to acknowledge that this is an important departure from the old concept, where you designed a ship and built it so it was solely British and everything remained in the control of the British shipbuilder. The shipbuilding industry has recognised—Sir John Parker identified this back in 2019—that to have resilience and appeal to all sorts of markets, whether they are indigenous markets here or export markets abroad, we need to be able to create things that other people have an interest in acquiring. That is a really exciting development.

The Type 31 has already seen export success, with the announcement in September last year that Indonesia has selected the Arrowhead 140 design for its programme. The UK Government are working closely with Babcock on a number of other export opportunities for the Arrowhead 140; of course, the results of the Miecznik frigate programme in Poland were recently announced, so there is activity there. It is an exciting reflection of what shipbuilding is currently achieving and what the strategy recognises and can build on.

I referred to the defence funding settlement. Both the noble Lord, Lord Tunnicliffe, and the noble Baroness, Lady Smith, were interested in what lies ahead for defence. We have had the integrated review, the defence Command Paper and what most people regard as a very significant financial settlement for defence. We take

nothing for granted. We live in the business of identifying and addressing threat. We have a very engaged Secretary of State who will, I am sure, be alert to how we do that and ensure that the funding is appropriate to whatever we need to deploy to address threat in future.

The noble Baroness, Lady Smith, asked whether the strategy is ambitious. Again, I was struck by a section in the document on our ambitions for the shipbuilding sector. I will not read it all out but, when I read through it, I felt as though I had had a good glass of gin—I felt uplifted. Look at the headings: "green technology"; "productivity"; "skills"; "autonomy" —developing a domestic regulatory framework for maritime autonomy so that we can lead the way on international maritime organisation—and "exports". There are a lot of ambitions in here. Perhaps the more pertinent question is: how do we know that we are achieving them? Again, I will not bore your Lordships with the detail but there is a series of metrics which would be a useful device in measuring how we are getting on.

The noble Baroness asked particularly about Type 45s. The power improvement project has been applied to HMS "Dauntless". She has moved into the test and commissioning phase of her programme. All three new diesel generators have been run. Initial load trials have been completed successfully, and that is a precursor to the rigorous trials programme in harbour before returning to sea later this year for sea trials.

HMS "Daring" has moved to Cammell Laird. It arrived there in September in readiness for commencement of her PIP conversion, which will be carried out during this year. This is a process whereby, as each ship is done, we learn. The other Type 45s will come in depending on operational activities and commitments. They are hugely capable, much-admired ships and are regarded as significant members of the Royal Navy fleet. I think that is a positive picture, and I am satisfied that there will be a good story to tell.

I hope that I have answered all the questions that the noble Lord, Lord Tunnicliffe, and the noble Baroness, Lady Smith, raised.

Lord Tunnicliffe (Lab): Will the Minister use the usual convention of writing for anything that she has missed out?

Baroness Goldie (Con): Yes, of course I shall.

8.15 pm

Lord Browne of Ladyton (Lab): My Lords, in the absence of my noble friend Lord West of Spithead, I convey to the Minister that, having had a conversation with him, he, like I, welcomes this refresh of the *National Shipbuilding Strategy* to the extent that it reflects Parker, because it takes a systems approach to these issues. To that extent, it is an energising read.

However, I know that my noble friend would think that that butters few parsnips unless we know when the ships will actually be ordered. The infographic that is figure 3 in the document—I know now how much the Minister likes infographics; I shall come back to figure 1 in a moment—refers to what is called the

"Decision point for future Capability".

That means absolutely nothing. One or two of them stretch over 14 years. The questions that I think my noble friend would like me to ask are: when are these ships going to be ordered and what ships are going to be ordered on those dates, because that is really important?

Perhaps I may stretch the House's patience a little to ask my own question. I like the infographic in figure 1 because it shows the extensive, comprehensive nature of this industry across the United Kingdom. The executive summary says:

"The shipbuilding industry supports 42,600 jobs right across the country and adds £2.8 billion to the UK economy. It supports a vast supply chain and skilled jobs around the country in both the civil and defence sectors and delivers world leading capabilities for the Royal Navy."

That is really encouraging. It is a very comprehensive view of the impact on our economy that the strategy could have as it is refreshed.

The problem is that the *National Shipbuilding Strategy* which is refreshed is that of 6 September 2017. Let me read to the Minister from the foreword by the then Secretary of State for Defence, Michael Fallon. He said:

"Today some 111,000 people are working in the maritime and marine sectors in the UK, including in the shipyards, supplying the parts, or supporting the equipment that keep this great industry alive, from Appledore to Rosyth and beyond."

What happened to those 70,000-plus workers within five years of the first strategy?

Baroness Goldie (Con): The noble Lord included a lot of material in his question, and I am not sure I can respond to it all. Let me pick up first on the important figure that he referred to, which is the outline of what shipbuilding will be for the United Kingdom over the next 30 years. That is a very healthy, refreshing and encouraging picture.

I appreciate that the noble Lord wishes to reflect the persistence of his colleague, the noble Lord, Lord West, in wanting to pin down figures. I have covered the timescale for the Type 26 and the Type 31. The noble Lord will be aware that the Type 32 is still in concept, but that will be an exceedingly important addition to the Royal Navy for the reasons that I described earlier, and they will be UK-built.

As the noble Lord, Lord Tunnicliffe, referred to, we will also be dealing with not just the fleet support ships but a multirole ocean surveillance ship and a multirole support ship—probably a number of these; these are the ships that will replace the landing platform docks and the landing ship dock auxiliaries in the early 2030s. We will be dealing with the future defence Type 83, which will replace the Type 45 destroyers. It will be a key part of the future of our air defence systems, and will provide wide-area air defence for the carrier strike group from the 2030s. In among all that is a miscellany of other shipbuilding activity.

The noble Lord will understand that I cannot be more specific about dates; it is impossible to do that when much of this is in the concept phase. He will understand that the plans are laid, the need is identified and the political resolve is there to order and deliver these ships.

Viscount Younger of Leckie (Con): My Lords, a number of noble Lords want to get in with their questions. I urge noble Lords to keep them short, and I am sure my noble friend will also endeavour to give short answers.

Lord Campbell of Pittenweem (LD): My Lords, I shall do my best to follow the Whip's instructions. I direct the attention of the Minister and noble Lords to page 29 of this glossy document. I am all for the British Navy getting as many ships as it is possible to provide. I work out roughly that something like 30 ships are promised on that page, but I also see that all this is to be achieved by additional funding of more than £24 billion over the next four years. Given the previous history of procurement of naval vessels in the Ministry of Defence, how can we possibly be confident that the ambition set out here can ever be achieved?

There is one act not of commission but of omission. Where is the reference to four Dreadnought submarines and 40 more warheads—the important nuclear deterrent? Where are they to be paid from if not from the general budget of the department? Once upon a time, they were paid separately, but no longer. The Chancellor of the Exchequer, Mr George Osborne, decreed that they must be paid out of the regular defence budget. Why is that not included to give us a more realistic picture?

Baroness Goldie (Con): I will take the last point first. The strategy is quite clear that it excludes the Dreadnought programme, I think for very understandable reasons. That is a separate, clearly identifiable programme standing in its own right. It has been budgeted for. The noble Lord is aware of the contingency fund, and that programme is proceeding.

As for the MoD's ability to commission and procure the ships to which the noble Lord referred, as further described in the section of the strategy document to which he referred, these are all objectives within the MoD perspective. He will be aware that we have to renew the Navy; that is the systematic programme we have in front of us. I would have thought that some Members from Opposition Benches would be positively green with envy to see what has already been achieved and what the plans are. That all points to a very healthy defence maritime capability.

Baroness Fraser of Craigmaddie (Con): My Lords, our experience in Scotland suggests that Governments are not very good at building ships. There are currently more boats in the Caledonian MacBrayne fleet that entered service when Margaret Thatcher was Prime Minister than have been launched since the SNP assumed responsibility for Scotland's ferries. Yesterday only 13 of CalMac's 29 ferry routes were operating a normal service, and for once this was nothing to do with the weather. How will this strategy ensure that the failures we are seeing in Scotland are not compounded? How will this strategy help the island communities of Scotland?

Baroness Goldie (Con): I thank my noble friend. I think she and I would certainly echo the sentiment that the island communities in Scotland are crying out for help. She refers to what has been a very unhappy chapter for the Scottish Government in building ships, running essential ferry transport links to Scottish island communities—this being the responsibility of their wholly owned subsidiary, CalMac—and being responsible for the maintenance and renewal of that fleet. This strategy can only help because it provides the components for a prosperous, sustainable UK shipbuilding industry and, engaging as it does with the devolved Administrations, I hope that will enable the Scottish Government to be alert to what is available and to seize the opportunity of taking all help and support. My noble friend is right: there is an urgent need to improve what is a very sorry ferry transport situation in Scotland.

Lord Dodds of Duncairn (DUP): My Lords, I welcome the strategy announced by the Government and the Statement that has been made. I welcome the opportunities set out in it for yards across the United Kingdom to benefit, thereby helping to strengthen the union. Will the Minister's department hold discussions with the devolved Governments and the Northern Ireland Department for the Economy about the potential for the Harland & Wolff shipyard in Belfast, with its glorious heritage and wonderful history, to benefit, also thereby contributing to the levelling-up agenda through the indirect jobs that the Minister has referred to?

Baroness Goldie (Con): Yes, and I say to the noble Lord that, of course, the strategy is a cross-government endeavour. It is being delivered by the National Shipbuilding Office, which sits within the MoD, but because it has been designed in partnership with industry to give UK shipbuilders and suppliers confidence to invest in people, facilities and research and development, its implementation will be led by the NSO and will reach across the United Kingdom. Therefore, it is anticipated that there will be engagement with the devolved Administrations, and I referred earlier to the industry-led shipbuilding enterprise for growth body. Between them, we can look forward to a much more cohesive consultation with the industry right across the United Kingdom.

Lord Sterling of Plaistow (Con): I thank my noble friend very much for the strategy. Governments and MoDs have had many of these over many years. This has taken some seven years following discussions that Sir John Parker, Admiral Hine and I had, having built quite a few hundred ships, and having made mistakes and learned from them. It is now with us today. What is needed now is the funded plan to deliver a continuous, 30-year pipeline of shipbuilding across the UK—not cost-plus and not guaranteed if performing badly. That will allow industry to get to the right size, drive efficiency and become truly competitive. Authority, money, a plan and cross-party support for a modern digital engineering workforce can deliver. I finish by saying that I would like this country to remain the most powerful member of NATO in Europe, and I am dead against President Macron's idea for a European army.

Baroness Goldie (Con): I thank my noble friend for his universally acknowledged authoritative comments on this. We all know that he has played a significant part in the development of the shipbuilding industry in the UK, for which we thank him. I do not think there is much appetite for a European army from the United Kingdom; we have as a cornerstone of our defence capability in Euro-Atlantic security our membership of NATO, and that is our primary obligation.

The Lord Bishop of Durham: My Lords, if I may return to the glorious infographic—figure 1 of the *National Shipbuilding Strategy*—and wear my north-east

hat very strongly at this point, the only north-east reference I could find in the entire document was a little star on the map, yet the north-east at one time was the great shipbuilding hub of the United Kingdom. What affirmation can the Minister give to the continuing shipbuilding work and ship repair work in the north-east and its desire to further expand for the future? Where does steel fit into that? I do not think the Minister answered the question from the noble Lord, Lord Tunnicliffe, about steel.

Baroness Goldie (Con): I say to the right reverend Prelate that figure 1, which is now assuming iconic importance in this discussion, is purely illustrative; it is not meant to be a precise geographical identification of every shipyard, but it reflects a broad spectrum, not just of shipbuilders but of the essential supply industry, which is like a set of veins reaching right out across the whole United Kingdom. The shipbuilding strategy, by its nature, means that there is no part of the United Kingdom where shipbuilding takes place that should feel excluded by this: on the contrary, it is included and is integral to what we are trying to do. I hope that any shipbuilding entity in the north-east will feel encouraged, will feel part of this and will feel that it wants to commit to this, with its industry partners, and engage with the Government on how this can all be taken forward. The right reverend Prelate will be aware that the Government currently try to help steel producers by producing an estimated pipeline of what steel orders may be and, in doing that, try to signal where manufacturers may want to be ready to investigate tendering for supply on a contract. I have already said that a number of ships are already committed to using British steel, but one of the technical issues is that not all types of steel are suitable for the particular type of ship being built, so there is the matter of finding suitable product.

Lord Greenway (CB): My Lords, this refreshed shipbuilding strategy is heavily geared towards naval shipbuilding. Can the Government confirm my reading from it, that we have abandoned all thought of building what I would call ordinary cargo-carrying merchant ships in the future? If we are going to just concentrate on specialist vessels, that is all well and good, but we will not sell too many ships like the "Sir David Attenborough", whereas ordinary cargo-carrying merchant ships often generate a lot of orders.

Baroness Goldie (Con): The noble Lord is probably better aware than almost anyone in the Chamber of the diversity of shipyard production in this country and the types of ships that the existing yards are capable of producing. The strategy is about not only sustaining and encouraging these shipyards and shipbuilders but introducing the resilience necessary to let them be flexible. He is quite correct that some yards may not be suitable for constructing particular types of ship, and that is matter for individual yards, but it may also be the case, as we have seen, for example, both in Govan and in Rosyth, that the two companies, British Aerospace and Babcock, invested in the infrastructure there because they actually needed to change the physical imprint of what they had to make it suitable for the production of the particular ships they were going to build. This is an opportunity for thinking outside the box and I hope the strategy will encourage shipbuilders to be innovative, be explorative and see if they can investigate what they can do in the future, even if they have not been accustomed to doing it in the past.

Elections Bill

Committee (2nd Day) (Continued)

8.34 pm

Clause 22: Prohibition on entities being registered political parties and recognised third parties at same time

Amendment 31B

Moved by ***Lord Khan of Burnley***

31B: Clause 22, page 32, line 4, at end insert—

"(7B) Subsection (7A) does not apply to a party registered in the Great Britain register in pursuance of a declaration falling within subsection (2)(d) (a minor party).""

Member's explanatory statement

This amendment is intended to probe the application of this Clause to minor parties.

Lord Khan of Burnley (Lab): My Lords, I shall speak to Amendments 31B, 32 and 32A in this group in the names of my noble friends Lady Hayman of Ullock and Lord Collins of Highbury. Amendments 31B and 32 relate to Clause 22, which prohibits an entity registering as both a political party and a third party, which would allow them to access multiple spending limits. I cannot see any reason to oppose this, which would remove a loophole from the level playing field—those words which have been so often mentioned—and maintain the integrity of the existing system.

In the debate on this clause in the other House, a Minister explained that this change was necessary after an entity registered as both during the 2019 general election, therefore abusing the system. Can the Minister confirm which party this was?

Specifically, Amendment 31B intends to probe the application of this clause to minor parties. While we can assume that major political parties, which tend to have governance units, will be aware of these new changes and will be very unlikely to register in both classifications, we should consider whether the same can be said for minor parties. This brings me to Amendment 32, which is intended to probe how the Government will inform third parties of the impact of this section. On the first day in Committee my noble friend Lady Hayman of Ullock touched on the importance of consultation, and I ask the Minister what consultation there has been on informing third parties of the impact of this section. In particular, I ask about impact assessments on this section. Consultation is particularly important for this Bill. Many of the groups which fall within the definition of third parties can be considered minor organisations which also may not have the necessary structures.

[Lord Khan of Burnley]

Amendment 32A touches on a similar subject of informing involved parties but relates instead to Clause 23. This clause deals with transitional provision for groups which appear on both registers and would permit them to spend only in one capacity.

I understand that the Minister has been very kind and has had discussions on these matters with my noble friends, but I really hope he can confirm what plans the Government have to involve, engage and inform the relevant parties, and we would really welcome further discussion on this matter. I beg to move.

Baroness Barker (LD): My Lords, I will follow up on the remarks of the noble Lord, Lord Khan. It is quite puzzling to see how extensive a problem it could be to have entities registered as both political parties and third parties. Indeed, when the noble Lord, Lord Hodgson of Astley Abbotts, did his review of the legislation governing third-party campaigning, he said specifically that he did not see this as a significant problem.

I would like to ask the Minister when he comes to reply whether that situation has changed because of the increase in digital campaigning and therefore ask how this would be monitored and enforced. Whose responsibility would it be? Presumably it would be the Electoral Commission's, but would it require a new set of digital enforcement measures that it has not had previously?

The other issue that I would like to probe is what engagement there will be with entities that might fall into this category. It is not at all clear to me from the Bill where this proposal has come from and how it is envisaged it will work. I think there is considerable concern among non-party campaigners out there which are small entities that they might fall foul of this when not doing anything intentionally wrong. It would be very helpful if the Minister could tell us the extent of the problem that has led to this having to be put into primary legislation.

The Minister of State, Cabinet Office (Lord True) (Con): I thank noble Lords who have contributed to this short debate. Our view is that no group or individual should have access to multiple spending limits at an election. Spending limits exist to ensure that there is a level playing field, a concept that I think we have agreed on already in this Committee, and any opportunities to unfairly expand spending limits should be removed.

The noble Lord opposite asked about specific examples. What is propelling the legislation is principle but, obviously, there is the case from the 2019 UK parliamentary general election when a group claimed that it could do that—that is, expand spending limits by registering both as a political party and as a third-party campaigner. The organisation that we have in mind is Advance Together, which was used to sidestep election spending rules. It registered both as a political party and as a third-party campaigner, effectively to double its spending limits. I do not want to go too deeply into the motivations there, but that organisation ran negative attack campaigns against incumbent MPs who were supporters of Brexit in five target constituencies. It was mainly staffed by former Liberal Democrats seeking to stop Brexit. Indeed, they admitted on Twitter:

"Our candidates are there to be tactical. Not to win."

Whatever the politics, this was a clear abuse of third-party local spending limits, which are limited to £700 per constituency under the RPA. That dual registration leap-frogged the £700 third-party spending limit in the constituency, allowing the third party to spend the higher candidate limit locally, and obviously to benefit from the national third-party spending thresholds. It is hard to believe that many groups would wish to circumvent the rules in this way, but I think noble Lords would agree that it is probably best to be prudent in this regard.

Lord Collins of Highbury (Lab): Just out of interest, with the application for registration as a political party, was there an awareness of the other application as a third party? Did that not get questioned, and could not the existing rules have addressed the issue? Were the two registrations just allowed to take place?

Lord True (Con): I would have to be advised on that matter. I understand where the noble Lord is coming from, because I agree that it is hard to believe that a group would want to proceed in that way. I shall share with the Committee what information is available on this.

Lord Wallace of Saltaire (LD): We on these Benches are totally unaware of this organisation, but I am glad to hear that it was staffed by Liberal Democrats. I am sure the Minister would expect it to be a dastardly Liberal Democrat plot, but I am completely unaware of it. Could his private office provide us with some information and background—there must be some—to inform us of the case, how serious it was and how it was dealt with? It somehow did not hit the *Sunday Times* on my Sunday morning, just before I got to my allotment.

Lord True (Con): The noble Lord will be taken to task for not reading the *Observer* if he keeps coming out with his Sunday morning reading. I was not there and the Government were not there but, looking at the empirical record, we believe that this was a prima facie case. I can report only what information I have: that it was staffed by former Liberal Democrats and operated in five target Liberal Democrat constituencies, but I accept the noble Lord's assurance that he knew nothing about it.

The clause that we have put in the Bill will prohibit recognised third-party campaigners registering as political parties and gaining access to a spending limit for each registration. The list of individuals and entities permitted to be on the third-party campaigner register will also be amended to remove political parties.

8.45 pm

The noble Lord, Lord Collins of Highbury, raised an important issue, asking that the Secretary of State be required to notify any person who, immediately before the commencement date, is both a registered party and a recognised third party—indeed, that is implicit in the remarks of the noble Lord, Lord Wallace. We have to hope that that can be recognised and dealt with in advance, rather than afterwards. The Government will work closely with the Electoral Commission on the commencement of these clauses as we work towards

bringing in the Bill, and the commission will be in a position to notify affected groups if a political party or a third-party campaigner attempts to register as the other between now and commencement.

I was also asked about what we are doing to communicate the change to third parties. As discussed earlier, the Electoral Commission is responsible for producing guidance for campaigners on complying with electoral law. Again, the Government will be working closely with the commission across the Bill on this aspect of implementation and guidance and will continue to do so following the approval of the Bill. From our discussions so far and given the general interest across parties, across the House and outside, it is clearly important that, whatever happens to the Bill's progress into law, the Government continue to keep your Lordships informed in the implementation stage as we go forward. Certainly, we will take away that spirit of the debates. That certainly needs to be shared and there needs to be scrutiny of the progress towards implementation.

The noble Lord, Lord Collins, also tabled an amendment seeking to probe the application of Clause 22 to minor parties. I am grateful to him for raising the topic—the noble Baroness, Lady Barker, also raised that point. We are keen to close any loophole and prevent registered parties or campaigners taking advantage of multiple spending limits. Registered minor parties are indeed registered parties, therefore it is right in principle that this clause applies to them. However, again, I am happy to consider this point further and will ask my officials to further test this particular point raised in the debate. With that in mind I urge that these amendments be withdrawn.

Lord Khan of Burnley (Lab): I thank the Minister for his detailed response. There were some very good contributions from noble Lords; in particular I welcome the point the noble Baroness, Lady Barker, made on monitoring, enforcing and digital campaigning with regard to this clause. The noble Lord, Lord Collins, rightly probed the whole aspect of communication with the Secretary of State in particular and being a third party as well as a political party.

When I asked the Minister a question, I did not want to cause a debate in the Chamber—it was done with good intentions. We look forward to working further with the Minister and I hope that on Sunday, when he is at his allotment, after he has read the *Sunday Times*, he can reflect on how he will further involve, engage and inform relevant parties. For the moment, I beg leave to withdraw.

Amendment 31B withdrawn.

Amendment 32 not moved.

Clause 22 agreed.

Clause 23: Section 22: transitional provision

Amendment 32A not moved.

Clause 23 agreed.

Clause 24: Restriction on which third parties may incur controlled expenditure

Amendment 33

Moved by ***Lord True***

33: Clause 24, page 33, line 26, after "during a" insert "reserved"

Member's explanatory statement

The amendments in Lord True's name relating to Clause 24 restrict the provision made by that clause, so that it applies only in relation to periods involving parliamentary general elections or general elections to the Northern Ireland Assembly.

Amendment 33 agreed.

Amendment 33A

Moved by ***Lord Hodgson of Astley Abbotts***

33A: Clause 24, page 33, line 26, at end insert—

"(za) could not reasonably be expected to have known they were campaigning within a regulated period,"

Member's explanatory statement

This expands the conditions under which a third party may incur controlled expenditure during a regulated period.

Lord Hodgson of Astley Abbotts (Con): My Lords, in moving Amendment 33A, I will speak also to Amendment 39. I am very grateful to the noble Lord, Lord Blunkett, for putting his name to the first of those. He has emailed me to say that he is very sorry that he cannot be here and has asked me to apologise to the Committee on his behalf.

This is the first amendment that I have moved. I beg the indulgence of the Committee for a moment so that I can briefly explain the background to all the amendments I propose to this section of the Bill. This preamble will serve as a preamble to all the other amendments we will come to on Thursday—Amendments 39A, 45B, 48A and 54A—and I will therefore foreshorten my speeches on that occasion.

As I explained at Second Reading, I was appointed by the Government to undertake the official review of Part 2 of the inelegantly named Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014. Section 39 of that Act required the Government to appoint a person to undertake a review of Part 2 of that Act in the light of the 2015 general election. My report, in the preparation of which I was greatly helped by a tremendous team from the Cabinet Office, was published in March 2016 and entitled *Getting the Balance Right*.

What is the balance we should seek to achieve? If we all agree that a vibrant civil society is a really important part of a vibrant democracy, in which everyone feels that they have a chance to have their voices heard collectively as well as individually, we need to ensure, on the one hand, that civil society organisations can speak truth to power—power does not always like having truth spoken to it—and on the other that the activities of those organisations are subjected to a proper degree of transparency. That is the balance that my report sought to achieve.

Finally, I make it clear that all my amendments are probing at this stage. I am looking forward to hearing how the Government react to the shape of the amendments I am putting forward before we get to the next stage.

[Lord Hodgson of Astley Abbotts]

So with that, to horse. These amendments are concerned with what is known as the regulated period. Members of the Committee will be familiar with the regulated period, but for those who are less familiar I will give a very quick summary. The regulated period is the period during which a third party has to keep a total of all qualifying expenses, which are those that can reasonably be regarded as intended to promote a person or procure electoral success at any relevant election. We shall come back to the intent test later, but the Committee can already see that this will not be as simple as it might be.

Accurate data is very important for third-party campaigners, because the total will determine what category of regulatory regime they come under. Nought to £9,999 means there will be no regulation at all. From £10,000 to £19,999 is the new lower tier; and above £20,000 is the tier that exists, which will continue under the Bill and which requires full registration.

The regulated period was set in the 2014 Act at 12 months. The Bill does not plan to change it. There is a strong argument that this is too long a period. It does not reflect the realities of political life outside the Westminster/Whitehall bubble and it imposes a considerable administrative burden on third-party campaigners, especially smaller ones. As such, it might serve to inhibit third-party campaigning unnecessarily.

Let me explain my thinking a little further. It is important to be clear about what the Government's legislation seeks to achieve and, in consequence, what it seeks to capture. The strategic, overarching approach must be to increase transparency and reduce the possibility of undue influence.

Most third parties tend to have a primary purpose not connected with campaigning at elections. Only a few third parties have been set up solely to campaign, and we were dealing with some of the by-products of that in the amendments that we have just been discussing. I argue that you can divide the activities of a third party into three broadly discrete areas. The first I describe as advocacy, which can be seen as business as usual. This is the work that a charity or voluntary group does year in, year out: the regular pattern of events and activities, such as setting up branches, recruiting people and trying to get some local or national press. In many cases, it is the bread-and-butter purpose of the particular organisation's existence.

The second part is what I call political campaigning, which comes more directly in the run-up to a general election. It particularly seeks to attempt to influence the wider debate and political process, to shape the form of the debate and hopefully—this is the gold standard—get one of the major political parties to put some aspect of the third-party campaigner's objectives into the party manifesto. Of course, the targets of this are primarily Ministers, MPs and Members of your Lordships' House. I argue that people in that particular category should be well able to look after themselves and aim off if they are being unduly pressurised.

The third area is electoral campaigning, which is activity intended to influence people's voting choices in the run-up to and during an election, at a time when the general public, defined as the people in the saloon bar of the Dog and Duck or on the Clapham omnibus, are switched on and are thinking about and interested in the political process. So the three key elements can be identified in any campaigning as: when the campaigning is taking place, who the audience is and whether the intent is to influence that audience.

In my view, the regulation of third-party campaigners should be only in respect of electoral campaigning—that is, activity intended to influence people's voting choices in the run-up to or during an election campaign. It should not be seeking to capture or deal with business as usual advocacy or political campaigning.

So when does the electoral campaigning period begin? In the review, I found little evidence—none, really—of electoral campaigning by third parties a full year ahead of the general election. Such research as there is suggests that, outside the Westminster village, the level of interest among the general public in the campaigning activities of third parties, other than in the immediate period, is very limited. Indeed, you could argue that, if you are doing it, you are probably wasting your money.

So what should then be an alternative period to 12 months? Well, we are exceptionally lucky because we have some real-life examples of alternative periods. The regulated period for the devolved legislatures is four months. My noble friend will no doubt say, "Well, that's devolved Administrations. It isn't the same as a national event". But the regulated period for European elections, when they were held, was also four months, and they were national elections. It is not clear to me why a UK general election should have a regulated period that is three times as long as those required in Scotland and Wales, particularly as I have found no evidence of third-party campaigning abuse in elections in those devolved Administrations with only a four-month regulated period.

That takes me to Amendment 39 first—the other one that I am speaking to—which, quite simply, reduces the regulated period from 365 days, or one year, to 120 days, or four months. In one stroke, the bureaucratic burden on third-party campaigners is reduced, without any reduction in effective regulation, in my view.

But, in the spirit of constructive ingratiation that every Back-Bencher should adopt when he is seeking that the Government follow his point of view, I have also tabled Amendment 33A, which takes a different approach, although it has the same objective of clarifying the position of those third-party campaigners. Proposed Section 89A in Clause 24, on exemptions from restrictions, says:

"No amount of controlled expenditure may be incurred by or on behalf of a third party during a regulated period unless the third party"—

after which my amendment would insert the words

"could not reasonably be expected to have known they were campaigning within a regulated period".

In other words, you give them a general bye because they could not have known.

9 pm

The Government have used the word "reasonably" in connection with the intent test, which is

"reasonably be regarded as intended"

to promote, so there is a nice symmetry of wording here that I hope my noble friend will find attractive. My preference is for the simple one year to four months, but if the Government were inclined to accept Amendment 33A, I should be happy to take half a loaf off the table.

Whichever route the Government prefer, in my view, there is an unanswerable argument for a change to the regulated period, and the need for change has been made more important as a result of the ending of fixed-term Parliaments. I make no comment on the desirability or otherwise of fixed-term Parliaments, but the by-product of having them was to give third-party campaigners increased visibility of the likelihood of a general election coming along. Now, for better or worse, that forward visibility has disappeared. With that, I beg to move.

Baroness Lister of Burtersett (Lab): My Lords, I support the noble Lord, Lord Hodgson, in his amendments. I am acting as a kind of understudy for my noble friend Lord Blunkett, but I cannot say that what I shall say would be his lines, but in his absence, at least there is a Labour Back-Bencher speaking in favour of the amendments.

I should perhaps first declare my interest as vice-chair of Compass, which is a left-of-centre campaigning organisation that has been promoting a progressive alliance for some years, and as honorary president of the Child Poverty Action Group. I worked for CPAG for many years and, during that time, worked on trying to get child poverty raised as an issue in many general elections.

The question of the 365-day limit was raised in the Public Bill Committee: why is it so long? I think the noble Lord, Lord Hodgson, made a strong case for it being too long. When questioned, the Minister in the Commons had three arguments. The first was that we all have a fairly good idea of when an election will be. Do we? There is already speculation that there could be an election next year. Indeed, those who have been lobbying about the Bill, sometimes groups in combination, could find that they are in the regulated period already. We simply do not know, now that we are outside fixed-term Parliaments. A prudent organisation would need to start taking steps very soon not to get caught out.

Secondly, the Minister argued that, in effect, we are all in it together: we all have the same amount of information, so it does not matter. I will not be affected by this legislation, but the kind of organisation that I am associated with could well be.

Thirdly, and most worryingly, the Minister said:

> "People will need to take that into account when they are campaigning politically."—[*Official Report*, Commons, Elections Bill Committee, 26/10/21; col. 314.]

Well, exactly. That is the problem: what is often called the chilling effect will take effect. If organisations involved in campaigning take account politically, that could stop them campaigning for large periods of the electoral cycle. That cannot be right. The noble Lord made helpful distinctions. Looking back, when I was at CPAG, there would have been big periods when we could not try to make child poverty an issue because we would have been caught by this legislation.

Perhaps the Minister will have stronger arguments for why 365 days is appropriate, but certainly the arguments put in the Commons were either weak or worrying. I am not clear why we need any retrospective regulated period. Why can it not just start when the election is called? However, in the spirit of compromise, I am happy to support one or other of these amendments and am very interested to hear what the Minister has to say about them.

Lord Wallace of Saltaire (LD): My Lords, the scars are still on my back from having taken the transparency of lobbying Bill, now an Act, through this House. I remind the Minister that we paused it when we ran into waves of criticism from all sides and arguments that we had not entirely got our own arguments in line. It was not quite as messy as this Bill, but we did at least manage to sort out something which did not displease everyone too much.

I have read the very useful report by the noble Lord, Lord Hodgson, which I compliment him on. It does its best to strike the balance between a number of very difficult and different priorities. All of us who have been involved in politics know that there are many civil society organisations. Some are easily politically neutral—as the Church is, most of the time—while others are inherently a bit on the right. Those of us who are old enough to have fought campaigns that the Society for the Protection of Unborn Children was active in will remember how vigorous, to say the least, it could be in its campaigns and how biased it was. Development NGOs and poverty NGOs, being in favour of greater public sector spending and greater equality, tend naturally to be more on the left. The balance between advocacy and electoral campaigning, as the noble Lord has said, is a difficult one, which we must all strike. In debating this issue with some of the organisations concerned, there were those who felt that they were entitled to campaign entirely as they liked because they were morally right and therefore should not in any sense be controlled in an election campaign.

I agree strongly with the noble Lord, Lord Hodgson, that 120 days is much better than 365 days. We no longer know when the election will be. It is one of the many bits of incoherence of this Government that putting through the abolition of the Fixed-term Parliaments Act in the Dissolution and Calling of Parliament Bill has not sorted out entirely the knock-on effects of that for this Bill. If I recall correctly, in his report, the noble Lord, Lord Hodgson, said that looking back on how various NGOs and civil society groups have spent on their advocacy and campaigning, the spending does come very much in the last few weeks and months before the election, rather than being spread evenly over the previous year.

Therefore, I strongly support Amendment 39 and hope that the Minister will accept that this is a reasonable adjustment in the Bill which the Government could accept, and which makes life simpler for those civil society groups which we all want to see engaging in campaigns and public debate. This tidying up would be a help to all concerned.

Lord Collins of Highbury (Lab): I thank the noble Lord, Lord Hodgson, for introducing these amendments at this stage. I know that we will have further debates

[Lord Collins of Highbury]
but, like him, I think it is really important to set this in context. I am grateful to my noble friend Lady Lister for doing so. She has an incredible record of promoting civil society and action groups focused on particular issues. I know from my own experience that civil society activity is really important; one of the most important groups I have participated in is one that my party, the Conservative Party and other political parties were a bit uncomfortable dealing with—LGBT rights. It took a civil society, cross-party campaign to change things and influence manifestos.

I said at Second Reading that a thriving democracy is not limited to Parliaments and parliamentarians. Countries that fail to protect their citizens force civil society to stand up for them and defend human rights. That is really important. The noble Lord, Lord Hodgson, and my noble friend, who was more explicit, talked about that chilling effect. That is what we must look at. Perhaps it is even an unintended consequence. However, it is a simple fact that we do not know the date of the general election; it is in the gift of the Prime Minister to set, and sometimes it can be a long campaign and sometimes it can be short. We do not want those civil society organisations campaigning throughout a five-year period, raising issues such as child poverty, to stand back because they fear that they might be caught in this regulated period.

I agree with my noble friend that the simplest solution is to say that the regulated period should start when a general election officially starts, but I will compromise with the noble Lord, Lord Hodgson, on four months. Importantly, in some of his later amendments we will come to issues such as defining what might reasonably be regarded as campaigning, which he rightly raised. I agree about a code of practice being brought before Parliament.

Even if the Minister cannot accept these amendments today—I have no doubt that he cannot—I hope he will take away that this will have an impact on civil society that will impact negatively on our democratic activity. I hope the Government will listen to both the noble Lord and my noble friend Lady Lister.

Lord True (Con): My Lords, I fear I cannot be as accommodating with these amendments as with some earlier ones on which I invited further discussion. However, I say to my noble friend Lord Hodgson that there are parts later in the Bill where I hope we may be able to have fruitful conversations. However, those are for a future day.

I accept that there is a balance to be struck in these matters, but starting, illogically, with my noble friend's Amendment 39—I suppose that is the upside-down, Whitehall way of looking at things—on reducing the length of the regulated period, I am sure many would agree that any campaigning up to 12 months before a parliamentary general election could have a significant influence on its outcome. This is not a new principle, nor has it come in since the Fixed-term Parliaments Act. The principle of 12-month regulatory periods has been in place for over 20 years, in which period civil society groups, including the group the noble Lord, Lord Collins, referred to—I nearly called him my noble friend—have been able to be very effective and move mountains within the electoral system.

9.15 pm

It is the Government's view that reducing the established period, notwithstanding the arguments I have heard from my noble friend—and I have the highest admiration for the care and concern he has put into studying these matters and his championing of the civil society sector and charities—would allow unregulated, uncapped spending and provide less transparency for the electorate than we have had over the past two decades.

Lord Wallace of Saltaire (LD): The Minister referred to the established 12-month period. I was not aware of it as an established principle. Perhaps now or in a letter, the Minister will tell us when it was established, how long it has been in effect and how it has been tried and tested, since he is so good at telling us that.

Lord True (Con): My Lords, I will stand corrected if it is not the case, but the principle of a 12-month regulatory period has been in place for more than 20 years. That is the advice I have and if I am wrong, I will gladly correct that; no doubt my noble friend behind me will correct me very fast.

The closely related Amendment 33A seeks to create an exemption from expenditure rules for third-party exempt campaigners where they could not reasonably be expected to be aware that they were campaigning during a regulated election period. One understands the arguments that were put, but regulated periods have been in place for years. Third parties engaging in election campaigning should be aware of the rules and of the existence of regulated periods. However, the Electoral Commission has produced extensive guidance to help third parties understand the rules. It states:

"Most campaign activity undertaken before an election is announced is unlikely to meet the purpose test".

It is an important test that is specifically intended to protect civil society, because

"you are unlikely to be reasonably regarded as intending to influence people to vote in an election when you do not know or expect that the election is happening."

I have heard arguments around the corner of that, but the basic principle of the purpose test is there, and therefore the Government do not accept the idea that regulated periods for third parties are overly burdensome. It is important that spending is regulated and transparent and it is right that spending that promotes a political party in the lead-up to an election is regulated, whether that is undertaken by the party itself or by a third-party campaigner. Therefore, with great respect, I fear that I cannot accept my noble friend's amendment and ask him to withdraw it.

Lord Hodgson of Astley Abbotts (Con): I thank noble Lords who have participated in this debate. The noble Baroness, Lady Lister of Burtersett, and I can disagree violently, have done and will no doubt do so again in the future, but sometimes we can agree violently, and I am glad that tonight is one of the evenings when we do. I thank her for coming along at 9.20 pm to lend her support. The noble Lord, Lord Wallace of Saltaire, is quite right to remind us that third-party campaigners can be self-regarding and feel that they are by definition good. They are not all good, and we always need to bear that in mind. As I have said before, they are not

populated entirely by angels. The noble Lord, Lord Collins, made a point about inadvertently catching people who are trying to do their best, but it all goes wrong.

I would not be happy about linking this to the calling of a general election. Some general elections come out of blue, but usually there is a period of electoral tension building up, and that is when efforts that would be part of electoral campaigning mode could be made. Not always, but most of the time, elections build up a bit and you know a month or two beforehand that something is likely to happen. That is why I think that four months is the right period.

However, my noble friend is not going to accept these proposals. He is entirely right to say that the Electoral Commission has worked hard on guidance. This takes us back to the old question of whether the guidance will hold true when something goes wrong—but the commission has tried very hard and I want to put that on the record.

As far as the period is concerned, 2014 made it the law; before that, it was practice. I, too, stand to be corrected. It had been understood that a year was about the time we should be keeping an eye open but, from the 2014 Act, it was the law. I can only say that "What we have, we hold" is not always a good answer. I do not think that it is a good answer here but, for the time being, I beg leave to withdraw the amendment.

Amendment 33A withdrawn.

Amendment 34

Moved by ***Lord True***

34: Clause 24, page 33, line 32, after "during a" insert "reserved"

Member's explanatory statement

See the explanatory statement relating to the amendment in Lord True's name at page 33, line 26.

Amendment 34 agreed.

Amendment 35

Moved by ***Baroness Hayman of Ullock***

35: Clause 24, page 33, line 33, leave out "£700" and insert "£699"

Member's explanatory statement

This amendment would probe the decision to limit expenses at £700.

Baroness Hayman of Ullock (Lab): My Lords, a couple of the amendments in this group relate to Clause 24, and then one moves on to Clause 25. Amendment 35 in my name is specifically an amendment to Clause 24. I should say at this stage that the noble Lord, Lord Wallace of Saltaire, has given notice of his intention to oppose the Question that Clause 24 stand part of the Bill. We have had quite a wide debate around Clause 24 during our debates on earlier groups, so I do not intend to go into any of the detail on it. The Committee and the Minister are clear about our concerns, so I will leave the noble Lord, Lord Wallace of Saltaire, to go into more detail when he speaks on the reasons why he wishes to oppose the Question.

In many ways, Amendment 35 is similar to earlier amendments of mine that we discussed in previous groups, which probed how certain figures had been reached in the Bill. This one is particularly about the decision to limit expenses to £700. I had a look at the Explanatory Notes to this section of the Bill. They say:

"Third-party campaigner controlled expenditure is only regulated during a regulated period. The offence under new section 89A(4) or (5) will only apply during a regulated period. New section 89A(2) outlines that 89A(1) will not apply to third-party campaigners spending below £700".

I hope noble Lords will bear with me; I am going to put my specs on to be certain that I am reading this correctly. The Notes say that

"this mirrors section 75(1ZZB)(a) and (1ZA) of the RPA 1983."

My first thought was, "Aha, perhaps that's where the figure of £700 comes from". However, Section 75ZA of the RPA says:

"The returning officer or the Electoral Commission may, at any time during the period of 6 months beginning with the date of the poll at a parliamentary election, request a relevant person to deliver to the officer or Commission a return of permitted expenditure in relation to a candidate at the election who is specified in the request."

It goes on to clarify:

"'Return of permitted expenditure' means a return—(a) showing all permitted expenses incurred by the person in relation to the candidate, or (b) stating that the person incurred no such expenses or that the total such expenses incurred by the person was £200 or less."

I may have missed further amendments to this, but I would be grateful if the Minister could clarify that I have read that correctly.

I also looked at Section 75(1ZZB) but could not find a reference to a figure there, either. However, it did provide a link to the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014. I sympathised with the noble Lord, Lord Wallace, when he said he still has the scars on his back from that Bill; I am rather glad I was not here at that stage. I took a look at that, but again I could not find a spending amount specified.

The Minister and noble Lords may be beginning to think that I do not get out enough, but I like to try to understand what is being presented to me. Therefore, I would be grateful to the Minister if he could shed any light on how the amount of £700 was reached. Perhaps I am just looking in the wrong place.

Amendment 45A sits within Clause 25. The noble Lord, Lord Wallace, has given notice of his intention to oppose Clause 25, and I have added my name. Amendment 45A would require the Secretary of State to

"consult the Electoral Commission before making an order under subsection (9)(a)."

As the Explanatory Notes clearly say:

"Clause 25 makes provision for the amendment of the list of eligible categories of third-party campaigners in section 88(2) of PPERA 2000. This allows for the ability to add, remove or amend categories of third-party campaigners from the list in section 88(2). This will allow for any new categories to be added to or removed from the list should that be necessary. Any change would have an impact on who is permitted to incur controlled expenditure during regulated periods under new section 89A."

[Baroness Hayman of Ullock]
We will discuss Clause 25 in greater detail when we come back next week. That is the time to have the big debate on this. Time is getting on—it is nearly 9.30 pm—so I do not intend to go into a lot of detail on Clause 25 at the moment.

Our concerns reflect those of trade unions, charities and other third-party organisations, mainly around the fact that the effect of bringing together Clauses 24 and 25 would be to allow the Secretary of State by statutory instrument to add, remove or define permitted participants in election campaigning and effectively to prevent categories of organisation spending more than £700 on election campaigning in the 12 months leading up to a general election.

I have spoken to a number of charities recently. They have said to me that they can perfectly properly campaign on political issues in support of their charitable aims, including during elections. The activity is already appropriately regulated, including by the Charity Commission. They cannot pursue their charitable aims solely through political campaigning, nor support or oppose a political party or candidate. This comes back to some of the points that the noble Lord, Lord Hodgson, made previously. In many ways they exist for public benefit. They are engaged in campaigning to further their charitable purposes and support policies that achieve them—not for a specific political party. Their expert and independent voice is an important aspect of a well-functioning democracy and is vital in raising awareness, educating the public and scrutinising policy-making.

We know that registering with the Electoral Commission as a third-party campaigner is necessary to be able to spend above certain limits on election-related campaigning. For example, many animal welfare groups want to promote animal welfare as an electoral issue or highlight the different views of parties and candidates. This is perfectly acceptable within an election campaign, but the broad power that these two clauses bring together has the effect of potentially allowing the Government to prevent charities, or any other category of campaigner, registering as a third-party campaigner.

The amendment in this group we are considering in relation to this specifically looks at new subsection (9)(c), which gives the Secretary of State the ability to vary

"the description of a third party"

in the list. We are asking that:

"The Secretary of State must consult the Electoral Commission"

before he is able to make an order under this subsection.

Under Clause 58, regarding information to be included with the electronic material, the Government are able to make regulations under the powers in Part 6 of the Bill only following a recommendation from the Electoral Commission or consultation with it. My question to the Minister is: why are the Government happy to put in the Bill consultation with the Electoral Commission in that section, on electronic materials, but not in this section, regarding the ability of the Secretary of State to amend the list of recognised third parties, which could have far more serious consequences?

As I said, we will have a wider debate next week on Clause 25. I beg to move.

9.30 pm

Baroness Barker (LD): My Lords, at this late stage, I want to thank the noble Baroness for her introduction. I do not intend to repeat many of the points that she put forward, which were entirely valid.

The history of legislation in this area over the past 20 years is of fundamentally confused aims which are compounded over time and, particularly these days, are exaggerated by new forms of digital campaigning. It becomes increasingly difficult to achieve the stated aims of the legislation, which is to understand who exactly is undertaking campaigning, how they are doing it and where their funding is coming from. Until such time as we sort out some of the points that the noble Lord, Lord Hodgson of Astley Abbotts, directed us towards, about what legitimate advocacy is and what party-political campaigning is, we will never sort this out entirely.

At every stage of this legislation, we have to ask what problem it is supposed to be answering. Do you know what? It is never very clear. That is a fundamental problem. My understanding of Clauses 24 and 25 is that they try to limit third-party campaigning to specific UK-based bodies and therefore to stop foreign interference. I am not entirely sure about that. As somebody who spent an awful lot of time in the charity world, I look very carefully at the description of entities. The Explanatory Note for Clause 24 states that it

"inserts new section 89A(1) of PPERA, which will prevent any third party from incurring controlled expenditure (including notional expenditure) during a regulated period, unless it is either eligible to register under section 88(2) of PPERA or an unincorporated association with the requisite UK connection".

Does "unincorporated association" mean a charitable entity? What does "requisite UK connection" mean? Does it mean registered as a charity in the United Kingdom or not? As the noble Baroness said, under Clause 25, the Electoral Commission has something that we might welcome; that is, an ability to stop whole classes of organisations or entities registering, but, at the moment, we do not know what they are or what they might be. If we did, we might agree, but there is something about the way in which this is all written that is unclear.

That leads us on to the key problem that that creates, which is how the Electoral Commission or the police will enforce this, particularly if it is entities of an uncertain nature outside the United Kingdom. It sets up yet another problem. I would therefore welcome it if the Minister could unpick all that and explain to us precisely what is going on here and what it is that we are trying to sort out.

Lord Stunell (LD): My Lords, the noble Baroness, Lady Hayman of Ullock, very generously attributed to us two items of business on this string that were actually submitted primarily by her colleague, the noble Lord, Lord, Collins—that is Amendment 45A—and herself in respect of opposing the Question on Clause 24. I refer to page 8 and 9 of the second Marshalled List of amendments to support the validity of the counterclaim I am making.

The intention to oppose the question of Clause 24 was tabled in the name of the noble Baronesses, Lady Hayman of Ullock and Lady Meacher, who is in her place and may well want to speak to that proposition.

All I wanted to say at this stage is that the noble Baroness, Lady Hayman, has opened up the big questions that lurk in relation to Clause 25. We will very certainly and definitely want to return to that, and we have stated our intention to oppose the Question that Clause 25 stand part of the Bill. But that is clearly not part of this string, and I think we will be resuming discussion on that at another time.

My noble friend Lady Barker has quite rightly pointed at the fog that surrounds the intended purpose of Clauses 24 and 25, and the lack of what I would describe as a credible justification for the alterations proposed in these two clauses, particularly in relation to Clause 24, seeing as that is the one that is in front of us at the moment. My noble friend Lady Barker pointed out some of the questions that arise from that. My understanding—maybe the Minister in replying could confirm it—is that an unincorporated association would, for instance, include an organisation which I believe is called the West Midlands Industrialists, which channels funds directly to the Conservative Party—entirely legitimately; I am not suggesting anything different. An unincorporated association could be a trade association, formal or informal; it could be some kind of NGO; it could just be an informal grouping that has got its constitution together. It is an entirely separate issue whether they are legitimate bodies to be funding elections—but the law as it stands says that that is legitimate. Except insofar as deleting Clause 24 might form part of the agenda for the rest of this evening, there is no proposal before us to change that. But I think we should perhaps ask the Minister if he or she can rehearse the unincorporated associations question, so we can understand, perhaps a bit more fully, what we will in essence eventually finish up this evening by nodding through. With that, I defer to the noble Baroness, Lady Meacher, who I am sure will want to speak on Clause 24.

Baroness Meacher (CB): My Lords, I rise to support the proposal on Clause 24 in the name of the noble Baroness, Lady Hayman of Ullock, to which I added my name. I think most of the points that need to be made have been made very well. I have some sympathy with the proposal from the noble Lord, Lord Hodgson; I think four months is a great improvement on a year as a bar on campaigning that might possibly be understood to be electioneering by small voluntary organisations—a very great improvement, actually. The real thing is whether we need this at all. I am very conscious that Clause 24 actually creates an offence. A small, rather vulnerable voluntary organisation could be setting out why its cause is so important and subsequently find it has done this within an election year; and it may be fined, I suppose, for this breach and for committing an offence.

So many bits of this Bill seem contrary to the whole essence of our democracy. Civil society contributes so very much to our political life through its work drawing attention to vulnerable groups and so on. I worked with the Child Poverty Action Group, as did the noble Baroness, Lady Lister. I was there for some years. When you are trying to draw to the attention of political parties just what really poor people are going through, how on earth could you be committing an offence if someone later calls an election?

I have a lot of worries about Clause 24, particularly because it creates that offence. It is a bit strange to me that Clause 24 stand part and Clause 25 stand part have been split because a lot of my concerns about Clause 24 are in fact deep in Clause 25—so much is left to regulations and Ministers can determine all sorts of things in relation to this provision. We will get on to that next time. I think that Clause 25 compounds the worries about Clause 24; I hope very much that the Minister will take this seriously and that the clause ultimately will not stand part.

Lord Scriven (LD): My Lords, I wish to speak in support of the probing Amendment 35 in the name of the noble Baroness, Lady Hayman. We have to ask what my noble friend asked. What is this trying to solve? In the regulated period of one year and at a figure of £700, we are saying that an organisation that spends £1.91 a day for 12 months before a general election could be committing an offence. That is the amount that would have to be spent per day by the organisation or £13.46 a week or £58.33 a month. The very simple question I would like to ask the Minister is: how was that daily amount of £1.91 calculated? Why is it deemed to be illegal if an organisation exceeds that amount and exactly what problem does it solve?

Lord Wallace of Saltaire (LD): My Lords, may I ask the Minister a question? I do not entirely understand this clause and the unincorporated association element is the least clear to me. I googled "unincorporated association" this morning and came away more confused than when I started. I think we would all be very grateful if the Minister's office could circulate a letter explaining why this is there, what sort of organisations they have in mind, whether there is a history or problems with unincorporated associations and, if so, what they were, so that we have some idea of why this is necessary. I get a sense from others who have spoken that we are puzzled by where this clause is coming from, why it is there and what it is intended to do.

Lord True (Con): My Lords, I have to confess that I irritate my wonderful team in the Box when I say—and this of course plays straight into the attack—why is this not a consolidation Act? Of course, in the great scheme of things, consolidation Acts on all sorts of things would be wonderful. As I have said, this is intended to be a reforming Act dealing with some matters which are relatively urgent, but I agree that the way that it operates is relatively opaque and I understand why noble Lords have asked these questions.

Like others, I am not going to stray into Clause 25, although I realise there is an interrelation between the two. I know from the engagement I have had with colleagues on all Benches that Clause 25 is an issue which the House wants to consider in some detail, and I am fully ready for that. If the House will forgive me, I will not go into that except in so far as it deals with this matter.

Clause 24 is intended to do something that we would all like to do, which is to ensure that campaign spending comes only from UK-based or otherwise eligible sources. The clause is intended to address some of the

[LORD TRUE]
concerns raised by the DCMS Select Committee in the other place in a 2019 report on disinformation—so-called fake news and foreign interference in UK elections.

9.45 pm

The clause will restrict all third-party campaigner spending during a regulated period to entities that are eligible to register with the Electoral Commission. As has been said in the debate—the noble Baroness, Lady Barker, referred to it in her question—these are the bodies listed in Section 88(2) of PPERA. There is a long list there that includes charitable incorporated organisations under Part 11 of the Charities Act and Scottish charitable incorporated organisations. The clause also refers, in new Section 89A(7), to an unincorporated association with "the requisite UK connection", which is connected to overseas electors.

The problem we seek to address is that, currently, foreign third-party campaigners can legally spend on UK elections underneath the recognised third-party campaigner registration thresholds, which are £20,000 during a regulated period in England and £10,000 in Scotland, Wales and Northern Ireland. This kind of activity becomes illegal only beyond those thresholds because foreign campaigners are unable to register with the Electoral Commission. We seek to control those campaigners. I think the Committee would agree that it is important that only those with a legitimate interest in UK elections are able to spend money campaigning and seeking to influence the UK electorate. Actually, the Electoral Commission recommended a specific ban on any campaign spending from abroad in its 2018 report *Digital Campaigning*. Again, I think there is agreement across the Committee that this is something we should seek to deal with.

Therefore, the clause is designed to remove the scope for any legal spending by foreign or otherwise ineligible third-party campaigners underneath the existing registration threshold. It brings that down to a £700 de minimis level, which is consistent with the "permitted sum" that a third party can incur when campaigning for or against a candidate without being authorised by an agent. That is in Section 75(1ZA) of the Representation of the People Act 1983. It is there; someone flashed it to me. I must not say that someone sent it to me on WhatsApp, otherwise I will appear all over the newspapers. It was sent to me in a hurry.

The sum in the Representation of the People Act 1983 has been increased over time. It went up most recently in 2014, after the ECHR held in the case of Bowman v United Kingdom in 1998 that the original limit in the 1983 Act was so low as to amount to an unjustified restriction on freedom of expression, so we were required to raise it.

Therefore, although I understand the puzzlement about the way this has been drafted, I hope that we can discuss the interlocking between Clauses 24 and 25. I understand the concerns about what organisations should and should not be there, but the purpose of this is the inclusion of the £700 de minimis threshold. It balances the desire that we all have to prohibit spending by foreign and other ineligible third parties with not criminalising low-level, potentially inadvertent breaches that are unlikely to adversely impact an election, and where there has been jurisprudence on the matter. I will not go into Clause 25, but I understand the concerns expressed on other Benches. We will address that.

We are conscious that legitimate categories of third parties which are not currently on the list of categories of campaigners may emerge in the future. Under Clause 24, if they did so, they would be significantly restricted in their ability to campaign—they could only go up to £700, rather than the existing threshold—if they could not be added to the list quickly. So, the interlocking is intended to allow the Government to amend the list of categories of third-party campaigners as necessary, subject to parliamentary approval via affirmative resolution.

While there may be issues in relation to Clause 25 that we will wish to address, I hope that, with that explanation, noble Lords will understand that we are seeking to restrict foreign campaigning.

Lord Wallace of Saltaire (LD): I am sorry to be obtuse. I do not entirely understand Clause 24(7), which defines the requisite UK connection of an unincorporated association. I think I understand it as meaning that there must be at least two people associated with it who, while they and anyone else in the unincorporated association may be living overseas, are at least on the register. Is it therefore envisaged that we will have more unincorporated associations which are based overseas but campaigning in Britain?

Lord True (Con): My Lords, it is required to have a UK connection. I will write to noble Lords to explain that clearly. In the two days that I have been listening in Committee, your Lordships have rightly—sometimes gently, sometimes aggressively—asked the Government to deal with foreign intervention. That is what this clause is intended to bear down on. We can have further discussion on the meaning of subsection (7) and I will undertake to write on that but I hope that, with those assurances—

Baroness Meacher (CB): I apologise for intervening at this time of night, but it would be so helpful if the Minister could be absolutely clear. My understanding is that charities are all on a list and can campaign; that is fine. Can he confirm, to me anyway and perhaps to the House, that UK-based organisations that are not necessarily charities but nevertheless promote all sorts of interests will not be covered by this offence and by these regulations?

Lord True (Con): Again, to help the House, I will write to clarify that. The clause refers to the bodies which the clause applies to—sorry, that sounds very circuitous. A third party that falls within any paragraph of Section 88(2) of PPERA is exempt from the provision. I will make that clear in more correct legal language, but that is how I understand it as a lay person. I hope that I can reassure the noble Baroness absolutely on that. I will check it with my officials tomorrow. I hope that, leaving aside whatever questions there may still be about Clause 25, your Lordships will accept that Clause 24, however imperfect, should not be excised from the Bill.

Lord Scriven (LD): Before the Minister sits down, on the £700 limit, have the Government done any assessment of how many UK-based organisations that spend between £700 and the existing amount of £20,000 will be affected by the potential change in this legislation?

Lord True (Con): The change refers to foreign or otherwise ineligible third-party campaigners. I do not know how many foreign organisations there might be that might want to be caught, but if I had such information, I would gladly share it with the noble Lord. As I have said—if I could just complete the explanation—the Section 88(2) organisations are not caught by this provision.

Lord Scriven (LD): Organisations which at the moment spend below £20,000, which will now go down to £700, will be affected. My question is: how many UK-based organisations that will spend between £700 and £20,000 will be affected by the change? I accept what the Minister says vis-à-vis foreign interference, but there will be organisations in the UK that spend between £700 and £20,000 within the 365-day period that will be affected by this, that are not registered. How many organisations have the Government assessed will be affected?

Lord True (Con): My Lords, there are other provisions in the Bill in relation to lower-tier and upper-tier spending, and in relation to the £10,000 and the £20,000. It is not specifically related to these provisions. I repeat my undertaking to the noble Lord that I will try to give him the advice he is asking for. Whether my officials, or the Electoral Commission, have a full list I cannot tell him at this hour. I understand that he might be concerned, but I urge noble Lords to understand that this clause is intended to apply to foreign entities.

Baroness Hayman of Ullock (Lab): I thank the Minister for his response to these amendments and other noble Lords for their contributions to the debate. I apologise to the noble Baroness, Lady Meacher, for forgetting to say that her name was with mine on the notice of our intention to oppose Clause 24 standing part of the Bill, and I thank her for her contribution.

The debate has raised some important issues that we will come back to, not just next week but further on in the debate. The Minister explained that Clause 24 is intended to bear down on foreign interests, and that only people with legitimate interests to influence UK elections should be able to contribute. I do not imagine that anyone would disagree with that aim, but there are still concerns about it. I am sure that we will revisit issues around foreign donations when we reach the clauses on overseas electors.

Regarding my inability to find the £700 in the RPA, if the Minister has a moment, or if one of his officials could send me the link so that I can see it with my own eyes, that would be marvellous. One concern here is the effect of the combination of Clauses 24 and 25 together; there is a bigger concern around that. I am sure we will revisit these concerns about Clauses 24 and 25, because they are so interconnected. I am sure that other noble Lords, as well as myself, would very much welcome further discussion with the Minister on this area, because there are very genuine concerns, particularly among a number of other organisations, including charities. For now, I beg leave to withdraw my amendment.

Amendment 35 withdrawn.

Amendments 36 to 38
Moved by ***Lord True***

36: Clause 24, page 34, leave out lines 25 and 26 and insert—

""reserved regulated period" means a period in relation to which any limit is imposed by paragraph 3, 7, 9, 10 or 11 of Schedule 10 (periods involving parliamentary general elections or general elections to the Northern Ireland Assembly)."

Member's explanatory statement

See the explanatory statement relating to the amendment in Lord True's name at page 33, line 26.

37: Clause 24, page 34, line 36, after "to" insert "reserved"

Member's explanatory statement

See the explanatory statement relating to the amendment in Lord True's name at page 33, line 26.

38: Clause 24, page 34, line 38, leave out subsection (4) and insert—

"(4) In subsection (3), "reserved regulated period" means a period in relation to which any limit is imposed by paragraph 3, 7, 9, 10 or 11 of Schedule 10 to PPERA (periods involving parliamentary general elections or general elections to the Northern Ireland Assembly)."

Member's explanatory statement

See the explanatory statement relating to the amendment in Lord True's name at page 33, line 26.

Amendments 36 to 38 agreed.

Amendment 39 not moved.

Clause 24, as amended, agreed.

Clause 25: Third parties capable of giving notification for purposes of Part 6 of PPERA

Amendment 40
Moved by ***Lord True***

40: Clause 25, page 35, line 4, after "(2)" insert ", as it applies for the purposes of a period in relation to which any limit is imposed by paragraph 3, 7, 9, 10 or 11 of Schedule 10 (periods involving parliamentary general elections or general elections to the Northern Ireland Assembly),"

Member's explanatory statement

This amendment limits the order-making power conferred by the inserted subsection (9) for section 88 of the Political Parties, Elections and Referendums Act 2000 so that the power can be exercised only for the purposes of periods involving parliamentary general elections or general elections to the Northern Ireland Assembly.

Amendment 40 agreed.

House resumed.

Dissolution and Calling of Parliament Bill

Returned from the Commons

The Bill was returned from the Commons with a reason. It was ordered that the Commons reason be printed.

Professional Qualifications Bill [HL]

Returned from the Commons

The Bill was returned from the Commons with amendments. It was ordered that the Commons amendments be printed.

Animal Welfare (Sentience) Bill [HL]

Returned from the Commons

The Bill was returned from the Commons with amendments. It was ordered that the Commons amendments be printed.

House adjourned at 10 pm.